

CHANDLER CROSSROADS ROADWAY INFRASTRUCTURE DEVELOPMENT AGREEMENT

1. INTRODUCTION

1.1. THIS DEVELOPMENT AGREEMENT (the "Agreement") is made by and among the CITY OF CHANDLER, ARIZONA, an Arizona municipal corporation ("Chandler"), ROCK-QUEEN CREEK LLC, a Delaware limited liability company ("Rockefeller"), and SunCap Phoenix, LLC, a North Carolina limited liability company ("SunCap"). Chandler, Rockefeller, and SunCap shall be referred to in this Agreement, collectively as "Parties," and individually as "Party."

2. RECITALS:

- 2.1. This Agreement is intended to set forth certain obligations of the Parties with respect to the contemplated development of Property A and Property B, as permitted by Arizona law. The Parties intend for this Agreement to be a "Development Agreement" within the meaning of A.R.S. § 9-500.05.
- 2.2. This Agreement provides for the construction, in and around both Property A and Property B, of certain public improvements to serve regional needs. The Parties further intend to provide for the acquisition of property required for certain of these public improvements, if necessary.
- 2.3. SunCap is the owner of approximately forty-eight (48) acres of land on the northeast corner of the intersection of Emmett and Queen Creek roads, legally described on Exhibit A (the "Property A"). Property A is located within the corporate limits of Chandler.
- 2.4. Rockefeller is the owner of approximately twenty-five (25) acres of land on the northwest corner of the intersection of Gilbert and Queen Creek roads, legally described on Exhibit A-2 ("Property B). Property B is located within the corporate limits of Chandler.
- 2.5. Property B's western boundary adjoins Property A on its eastern boundary as depicted on the Vicinity Map, attached hereto as Exhibit A-3.
- 2.6. Chandler has approved development of the Property A under zoning case number DVR07-0037 for development of an approximately 300,000 square foot commercial/industrial building and the name of Chandler Crossroads (the "Project") which includes the completion of public roadway and utility infrastructure for the north half of the portion of Queen Creek Road between Emmett and Gilbert roads ("Roadway Infrastructure") as set forth in Chandler-approved civil engineering plans (identified in City Engineer's office as Tracking #ERW14-0001), which are incorporated into this Agreement by this reference, on the Technical Site Plan, attached hereto as Exhibit C, and on the Queen Creek Pavement Cross-section, attached hereto as Exhibit D. The Chandler-approved civil engineering plans #ERW 14-0001, Exhibit C, and Exhibit D are referred to collectively hereinafter as the "Plans."
- 2.7. Rockefeller is willing to complete the Roadway Infrastructure to the specifications required in the Plans.
- 2.8. SunCap is the developer of the Property A and the necessary public infrastructure, other than the Roadway Infrastructure, required for the development of Property A as required by the Applicable Laws and such other necessary public infrastructure is not the subject of this Agreement.
- 2.9. Under § 38-13 of the Chandler City Code, the payment of Impact Fees may only be

- deferred if agreed upon by the City Council through a development agreement.
- 2.10. At the Effective Date of this Agreement, Rockefeller does not have approved plans for development of Property B but its construction of the Roadway Infrastructure will result, in accordance with Chandler City Code Chapter 38 in Arterial Development Fee credits for use by the Property B owner(s) upon its future development since the completed Roadway Infrastructure will also adjoin, on its southern boundary, Property B.
 - 2.11. Additionally, Rockefeller's construction of the Roadway Infrastructure will also result in Arterial Development Fee credits for use by the Property B owner (who is Rockefeller at the Effective Date but could be a successor owner at the time of development of Property B) since the completed Roadway Infrastructure will also adjoin, on its southern boundary, Property B.
 - 2.12. Chandler has determined that the proposed development of Property A and Property B is in accordance with this Agreement and is consistent with Chandler's General Plan.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and representations and the mutual covenants and conditions in this Agreement, the Parties agree as follows:

3. **TERM.** This Agreement shall be effective for all purposes on the date on which the last representative of the Parties signs it ("Effective Date"). The term of this Agreement shall from the Effective Date until the earliest date on which Rockefeller or its successor owner of Property B uses of all available Arterial Development Fee credits for Property B and Chandler's acceptance of the Roadway Infrastructure.
4. **DEFINITIONS.** In this Agreement, unless a different meaning clearly appears from the context:
 - 4.1. "Agreement" means this Agreement, as amended or supplemented in writing from time to time, and includes all exhibits and schedules incorporated and/or attached hereto.
 - 4.2. "Acceptance of Roadway Infrastructure" means the City Engineer's written acknowledgement of acceptance of the Roadway Infrastructure, in accordance with Chandler City Code § 47-8.1 and conditioned upon a one-year warranty ("Warranty Period") for workmanship, materials, equipment given by Rockefeller for the Roadway Infrastructure effectuated by the Chandler's retention of ten percent (10%) the Cash Deposit during the Warranty Period.
 - 4.3. "Applicable Laws" means the federal, state, county and local laws (statutory and common law), charter provisions, codes, ordinances, rules, regulations, permit requirements, fee schedules and assessments, and other requirements and official policies of Chandler which apply to the development of all or any part of the Property
 - 4.4. "Business Day" means any day of the week when the Chandler Planning and Development Department is open to the public for the conduct of the department's business.
 - 4.5. "Commence Construction" or "Commencement of Construction" means the occurrence of both of the following: (i) the issuance of a construction permit, and (ii) the commencement of construction beyond grading of foundation for which the construction permit is issued.
 - 4.6. "Project" means that which is described in Subsection 2.6.

5. DEVELOPMENT OBLIGATIONS.

5.1. Rockefeller Construction Obligations.

5.1.1. By its signature below, SunCap agrees that Rockefeller will provide the Roadway Infrastructure as set forth in the Plans.

5.1.2. Rockefeller has previously, at its own cost and expense, dedicated those portions of Property A and Property B needed for use as public right-of-way for the Roadway Infrastructure to Chandler for use as a public right-of-way through that certain Special Warranty Deed dated May 23, 2008, and recorded August 11, 2008, as Instrument No. 20080697225, Official Records of Maricopa County, Arizona, which dedication Chandler hereby confirms is acceptable to the Transportation and Development Director. The term "use as a public right-of-way" shall include all uses normally associated with the construction, operation, and maintenance of a public street, including without limitation the placement of public utilities by Chandler or by third-party service providers granted such right by Chandler, use for storm water conveyance, and the placement of landscaping, lighting, drainage and signage improvements.

5.1.3. Rockefeller shall, at the expense of Rockefeller and SunCap as provided by separate written agreement between such parties, construct all Roadway Infrastructure, including public and private utility infrastructure, as required in the Plans.

5.1.4. Prior to the granting of permits to SunCap for development of the Property, Rockefeller will deposit with Chandler, a cash deposit in the amount of the estimated costs of the Roadway Infrastructure ("Cash Deposit") as normally determined by the City Engineer as a financial assurance that the Roadway Infrastructure will be completed in accordance with the specifications required by Applicable Laws. Rockefeller shall pay the Cash Deposit on or before May 15, 2014.

5.1.5. Thereafter, Rockefeller shall promptly proceed to construct the Roadway Infrastructure in accordance to the Plans but shall complete the Roadway Infrastructure no later than June 1, 2015. If Rockefeller fails to commence construction on or before February 1, 2015 or fails to complete the Roadway Infrastructure no later than June 30, 2015, Chandler may, after twenty (20) business days from the giving of written notice as provided in Subsection 8.2, withdraw, from the Cash Deposit, the needed funds to complete the Roadway Infrastructure in accordance to the Plans. If the cost of the Roadway Infrastructure construction exceeds the Cash Deposit, Rockefeller will reimburse Chandler within 30 days of Chandler's written notice detailing the costs of the construction of the Roadway Infrastructure and application of the Cash Deposit. If the costs of construction of the Roadway Infrastructure are less than the Cash Deposit, Chandler shall refund the balance after the end of the Warranty Period if any is remaining in accordance with Chandler City Code, Chapter 47. This Subsection 5.1.5 is not subject to the Grace Period or other notices of Section 6. If Chandler takes over completion of the Roadway Infrastructure, it will substantially adhere to the completion dates for the Roadway Infrastructure set forth in this Subsection 5.1.5.

5.1.6. **Encroachment Permit for Right-of-Way.** Rockefeller, its agents, and employees, shall have the additional right, upon receipt from Chandler of an appropriate encroachment permit, to enter and remain upon and cross over any Chandler easements or rights-of-way to the extent reasonably necessary to facilitate Roadway Infrastructure construction, or to perform necessary maintenance or repairs of such Roadway Infrastructure. Rockefeller's use of such easements and rights-of-way, pursuant to the

encroachment permit, shall not impede or adversely affect Chandler's use and enjoyment thereof.

5.2. Deferral of SunCap Arterial Road System Development Fees for Property A:

- 5.2.1. SunCap acknowledges that it is obligated by Applicable Laws to build the Roadway Infrastructure in accordance with the Plans in order to be able to initially develop the Project. By virtue of this Agreement, however, Rockefeller is accepting SunCap's obligation to construct the Roadway Infrastructure in accordance with the Plans and terms and conditions herein.
- 5.2.2. Under Applicable Laws and absent this Agreement, SunCap would be required, because of SunCap's development of the Project, to pay all of the Arterial Road System Development Fees ("Arterial Development Fees") prior to SunCap's obtaining any building permits needed for the Project.
- 5.2.3. Under Applicable Laws and absent this Agreement, following (a) SunCap's payment of all such Arterial Development Fees payable with respect to the development of the Project, (b) the completion of the Roadway Infrastructure, and (c) Chandler's acceptance of the Roadway Infrastructure, SunCap would be entitled to a partial credit against the Arterial Development Fees paid by SunCap with respect to the development of the Project in accordance with the crediting process established in Chandler City Code Chapter 38 (the "SunCap Initial Development Credits"). The availability of such SunCap Initial Development Credits would authorize reimbursement by Chandler to SunCap of a sum equal to the sum of the SunCap Initial Development Credits.
- 5.2.4. Chandler hereby agrees, however, in consideration of Rockefeller's agreement to construct the Roadway Infrastructure and in accordance with Chandler City Code § 38-12 and § 38-13, that SunCap shall be obligated to pay prior to SunCap's obtaining any building permits needed for the Project, only the sum of those Arterial Development Fees applicable to the development of the Project which would not otherwise be subject to offset by the sum of the SunCap Initial Development Credits, and that Chandler will defer the portion of such Arterial Development Fees equal to the sum of the SunCap Initial Development Credits contingent upon Chandler's acceptance of the Roadway Infrastructure.
- 5.2.5. Upon Chandler's acceptance of the Roadway Infrastructure, such Deferred Development Fees shall thereafter be deemed forever waived by Chandler.
- 5.2.6. The share of Arterial Development Fee credits to be accorded to Property A as the SunCap Initial Development Credits shall be in accordance with Exhibit E, attached hereto. Exhibit E is a memorandum of Rockefeller and SunCap's agreement signed by authorized representatives of Rockefeller and SunCap establishing the split of the Arterial Development Fee Credits between Property A and Property B.
- 5.2.7. Chandler and SunCap hereby agree and acknowledge that the deferral and waiver of Arterial Development Fees provided by Chandler to SunCap herein shall apply only to the development of the Project, and that no further credits against Arterial Development Fees arising as a result of Rockefeller's completion of the Roadway Infrastructure shall be available to SunCap or to any successor owner of all or a portion of Property A.

5.3. Credits Due to Rockefeller for Property B.

- 5.3.1. Chandler hereby agrees, in consideration of Rockefeller's completion of its construction of the Roadway Infrastructure, that Chandler will reserve and make available in perpetuity, for the benefit of Rockefeller and/or the successor owners of

Property B as described in Subsection 8.12, all Arterial Development Fee credits with respect to Rockefeller's construction of the Roadway Infrastructure that are available in excess of the SunCap Initial Development Credits provided to SunCap hereunder. No such Arterial Development Fee credits arising with respect to development of Property B shall be available with respect to any development of Property A other than the Project.

5.3.2. Chandler will from time to time within fifteen (15) days of Rockefeller's submittal of the required written request for the Arterial Development Fee credits in the form required by the Chandler City Code inform Rockefeller, in writing in accordance with Subsection 8.2, of the dollar value of the Arterial Development Fee credits available to Rockefeller or its successor owner of Property B.

5.3.3. In the event of the subdivision of Property B into two or more parcels, Chandler will, in accordance with the formulas and processes established in Chandler City Code Chapter 38, make available to Rockefeller and/or the successor owner(s) of Property B, on a parcel-by-parcel, basis, in accordance with Exhibit F, the relevant proportionate amounts of the Arterial Development Fee credits applicable to the development of the various parcels of Property B resulting from such subdivision.

6. DEFAULTS.

6.1. **Events of Default.** Either Party shall be deemed to be in default under this Agreement if the defaulting Party breaches any obligations required to be performed by it hereunder, subject to the provisions of Subsection 6.3.

6.2. **Remedies.** In the event of a default hereunder and failure by the defaulting Party to timely cure the default as provided in Subsection 6.3, the non-defaulting Party shall have all remedies available to it at law or in equity. The Parties may institute a legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation, including suits for declaratory relief, specific performance, relief in the nature of mandamus and actions for damages, provided, however, that claims for damages shall be limited to actual damages. The Parties hereby waive any right to seek consequential, punitive, multiple, exemplary or any other damages.

6.3. **Grace Periods; Notice and Cure.** Upon the occurrence of an event of default by any Party, such Party shall, upon receipt of written notice from the non-defaulting Party, proceed promptly to cure or remedy such default. Monetary defaults shall be cured within ten (10) days after receipt of such written notice and non-monetary defaults shall be cured within thirty (30) days after receipt of such written notice. The non-defaulting Party shall not exercise any remedies pursuant to Subsection 6.2 until and unless the applicable cure period described in this Subsection 6.3 has expired and the default remains uncured at such time.

6.4. **Delays; Waivers.** Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any default by the other Party shall not be considered as a waiver of rights with respect to any other default by the non-defaulting Party or with respect to the particular default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems

created by the default involved.

- 6.5. **Rights and Remedies Cumulative.** The rights and remedies of the Parties are cumulative, and the exercise by either Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy for any other default by the other Party.

7. REPRESENTATIONS

- 7.1. **Chandler Representations.** Chandler represents and warrants to Rockefeller and SunCap that:

7.1.1. Chandler is duly formed and validly existing under Arizona law and that the individual executing this Agreement on behalf of Chandler is authorized and empowered to bind Chandler.

7.1.2. Chandler has the full right, power and authorization to enter into and perform this Agreement and each of Chandler's obligations and undertakings under this Agreement, and Chandler's execution, delivery and performance of this Agreement have been duly authorized and agreed to in compliance with the requirements of its Charter and Arizona law.

7.1.3. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

7.1.4. Chandler will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

- 7.2. **Rockefeller Representations.** Rockefeller represents and warrants to Chandler and SunCap that:

7.2.1. Rockefeller is duly formed and validly existing, or doing business, under Arizona law and that the individual(s) executing this Agreement on behalf of Rockefeller is authorized and empowered to bind Rockefeller.

7.2.2. Rockefeller has the full right, power and authorization to enter into and perform this Agreement and of the obligations and undertakings of Rockefeller under this Agreement, and the execution, delivery and performance of this Agreement has been duly authorized and agreed to in compliance with its organizational documents and Arizona law.

7.2.3. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

7.2.4. Rockefeller will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

- 7.3. **SunCap Representations.** SunCap represents and warrants to Chandler and Rockefeller that:

7.3.1. SunCap is duly formed and validly existing under North Carolina law and is duly qualified as a foreign entity in Arizona.

7.3.2. That the individual(s) executing this Agreement on behalf of SunCap is authorized and empowered to bind SunCap.

7.3.3. SunCap has the full right, power and authorization to enter into and perform this Agreement and of the obligations and undertakings of SunCap under this Agreement, and the execution, delivery and performance of this Agreement has been duly authorized and

agreed to in compliance with its organizational documents and Arizona law.

7.3.4. All consents and approvals necessary to the execution, delivery and performance of this Agreement have been obtained, and no further action needs to be taken in connection with such execution, delivery and performance.

7.3.5. SunCap will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement, evidence and enforce this Agreement.

8. GENERAL PROVISIONS.

8.1. **Force Majeure.** Notwithstanding any other term, condition or provision hereof to the contrary, in the event any Party hereto is precluded from satisfying or fulfilling any duty or obligation imposed upon such Party by the terms hereof due to labor strikes, material shortages, war, civil disturbances, weather conditions, natural disasters, acts of god, or other events beyond the control of such party, the time period provided herein for the performance by such Party of such duty or obligations shall be extended for a period equal to the delay occasioned by such events.

8.2. Methods of Notifications.

8.2.1. **Notices.** Except as otherwise required by law, any notice, demand or other communication given hereunder, shall be in writing and shall be given by personal delivery or be sent by certified or registered U.S. Mail, return receipt requested, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this paragraph, or by electronic mail, facsimile machine or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid:

8.2.2. **Effective Date of Notices.** All such notices, demands or other communications will (i) if delivered personally or delivered through a same day delivery/courier service be deemed effective upon delivery or refusal to accept delivery by the addressee, and (ii) if delivered by U.S. mail in the manner described above be deemed effective upon the earlier of receipt or three (3) business days after deposit in a post office operated by the United States or with a United States postal officer (in each case regardless of whether such notice, demand or other communication is received by any other person to whom a copy of such notice, demand or other communication is to be delivered pursuant to this paragraph). Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice sent by email or facsimile machine shall be deemed effective upon confirmation of the successful transmission by the sender's electronic mail system or facsimile machine. Notwithstanding the foregoing, no payment shall be deemed to be made until actually received in good and available funds by the intended payee.

To Rockefeller:	Rock-Queen Creek LLC c/o Rockefeller Group Development Corporation 2375 E. Camelback Rd., #600 Phoenix, Arizona 85016 Attention: Mark Singerman Telephone: (602) 387-5328 Facsimile: (602) 387-5001
-----------------	---

With a copy to: Rock-Queen Creek LLC
c/o Rockefeller Group Development Corporation
1221 Avenue of the Americas
New York, NY 10020
Attn: Legal Department
Telephone: (212) 282-2000
Facsimile: (212) 282-2124

To SunCap SunCap Phoenix, L.L.C.
c/o SunCap Property Group, LLC
6101 Carnegie Blvd, Suite 18
Charlotte, NC 28270
Attn: Flint McNaughton & Jason Bria, General Counsel
Telephone: (704) 945-8010

With a copy to: Warner Angle Hallam Jackson & Formanek, PLC
2555 E. Camelback Road, Suite 800
Phoenix, Arizona 85016
Attn: Dean Formanek
Telephone: (602)264-7101

To Chandler: Chandler Economic Development Office (MS 416)
P. O. Box 4008
Chandler, AZ 85244-4008
Attention: Christine Mackay
Phone: 480-782-3035
Facsimile: 480-782-3040

With a copy to: Chandler City Attorney's Office (MS 602)
P. O. Box 4008
Chandler, AZ 84244-4008
Attention: Kay Bigelow
Phone: 480-782-4640
Facsimile: 480-782-4652

- 8.3. **Waiver of Right to Trial by Jury.** The Parties expressly covenant and agree that in the event of a dispute arising from this Agreement, each Party waives any right to a trial by jury. In the event of litigation, the Parties agree to submit to a trial before the court.
- 8.4. **Attorneys' Fees.** In the event of commencement of a legal action in an appropriate forum by a Party to enforce any covenant or any of such Party's rights or remedies under this Agreement, including any action for declaratory or equitable relief, the prevailing Party in any such action shall be entitled to reimbursement of its reasonable attorneys' fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the Party and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

- 8.5. **Amendment.** No change or addition is to be made to this Agreement except by written amendment executed by all the Parties. Within ten (10) days after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona.
- 8.6. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Arizona.
- 8.7. **Cancellation for Conflict of Interest.** This Agreement is subject to the cancellation provisions for conflicts of interest pursuant to A.R.S. §38-511.
- 8.8. Limited Severability.**
- 8.8.1. In the unlikely event that any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect. Notwithstanding the foregoing sentence, however, this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed Agreement provides essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.
- 8.8.2. If the Agreement cannot be retroactively reformed in such a way that it provides essentially the same rights and benefits to the Parties then either Party may terminate the Agreement without further rights or liabilities to the other Party other than those that expressly survive termination.
- 8.9. **Recordation.** This Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona not later than ten (10) days after execution of the Agreement by the Parties.
- 8.10. **Time is of the Essence and Successors.** Time is of the essence in implementing the terms of this Agreement.
- 8.11. **Non-Assignability.** Rockefeller may not assign all or any portion of its obligations to construct Roadway Infrastructure and the making of a Cash Deposit as established herein to any one or more persons.
- 8.12. **Successors & Assigns of Property A and Property B.** All other of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto pursuant to A.R.S. §9-500.05(D), provided, however, Rockefeller or SunCap's respective rights to Arterial Development Fees Credits in accordance with Section 5 may only be assigned to a person that has acquired Property A or Property B or a portion thereof, as applicable.
- 8.13. **Further Acts.** Each of the Parties hereto shall promptly and expeditiously 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.
- 8.14. **Construction.** When used herein, the terms "include" or "including" shall mean without limitation by reason of the enumeration. All grammatical usage herein shall be deemed

to refer to the masculine, feminine, neuter, singular, or plural as the identity of the person or persons may require. The term "person" shall include a natural person or any duly formed entity. If this Agreement uses the term "day," it shall mean calendar day unless otherwise specified or modified. If the last day of any time period stated herein should fall on a Saturday, Sunday, or legal holiday, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday, or legal holiday in the State of Arizona. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on a Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday. The Section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement. If a cross-reference within any provision cites a particular section or subsection number of this Agreement, it shall be a reference to the referred section or subsection and its subparts.

- 8.15. **No Partnerships, Third Parties.** It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement among the Parties. No term or provision of this Agreement is intended to, or shall, be for the benefit of any Person not a party hereto, and no such other Person shall have any right or cause of action hereunder, except for permitted transferees or assignees to the extent that they assume or succeed to the rights and/or obligations of Rockefeller under this Agreement.
- 8.16. **Individual Nonliability.** No Chandler Council member, Chandler official, representative, agent, attorney or employee shall be personally liable to Rockefeller or to any successor in interest Rockefeller, in the event of any default or breach by Chandler or for any amount which may become due to Rockefeller or its successor, or with respect to any obligation of Chandler under this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the liability of Rockefeller under this Agreement shall be limited solely to the assets of Rockefeller and shall not extend to or be enforceable against: (i) the individual assets of any of the individuals or entities who are shareholders, members, managers constituent partners, officers or directors of the general partners or members of Rockefeller; (ii) the shareholders, members or managers or constituent partners of Rockefeller; or (iii) officers of Rockefeller.
- 8.17. **Recitals & Exhibits.** The Recitals set forth in Section 2 are incorporated herein by this reference and form a part of this Agreement. The Parties agree that all references to this Agreement include all Exhibits designated in and attached to this Agreement, such Exhibits being incorporated into and made an integral part of this Agreement for all purposes. References to Sections or Exhibits are to this Agreement unless otherwise qualified. In the event of a conflict between the text of this Agreement and the attached or incorporated Exhibits, the text of this Agreement shall control. A conflict among the other attached or incorporated Exhibits shall be resolved by the more specific Exhibit over the more general Exhibit, unless the context explicitly requires otherwise.
- 8.18. **Entire Agreement.** This Agreement and all Exhibits, incorporated and/or attached hereto, constitute the entire agreement between the Parties 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.

8.19. **Indemnifications, Warranties, and Representations Survive.** All representations and warranties contained in this Agreement (and in any instrument delivered by or on behalf of any Party pursuant hereto or in connection with the transactions contemplated hereby) are true on and as of the date so made, will be true in all material respects during the term of this Agreement. In the event that any representation or warranty by a party is untrue, the other Party shall have all rights and remedies available at law, in equity, or as provided in this Agreement. The provisions of this Agreement wherein a Party has explicitly indemnified, made warranty or representations to the other Party shall survive the expiration or earlier termination of this Agreement.

8.20. **Release of Record.** Chandler shall record a Release of Agreement in the official records of the Maricopa County, Arizona within 30 days following request by either Rockefeller, SunCap, or any successor owner of Property A or Property B, provided that Acceptance of Roadway Infrastructure has occurred prior to such date. The Parties acknowledge and agree that a recorded Release of Agreement signed by Chandler shall be deemed to release the obligation to construct the Roadway Infrastructure without the need for such Release of Agreement to be signed by Rockefeller, SunCap or any successor owner of Property A or Property B. Such Release of Agreement shall not serve, however, to extinguish Chandler’s obligation to provide the various Arterial Development Fee credits described herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective on the Effective Date and hereby swear and affirm that are duly authorized in accordance with law to execute this Agreement.

CHANDLER

CITY OF CHANDLER, an Arizona municipal corporation

By: _____ 05- -2014
MAYOR date

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY kb

STATE OF ARIZONA)ss
County of Maricopa)ss

**CHANDLER
ACKNOWLEDGEMENT**

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014, by Jay Tibshraeny, the Mayor of the City of Chandler.

My Commission Expires: _____

ROCKEFELLER

ROCK-QUEEN CREEK LLC, a Delaware
limited liability company

By: Rock-Miramar, Inc., its sole member

By: _____ 05/ /2014
Mark Singerman date
Vice President

STATE OF ARIZONA)ss
)ss
County of _____)ss

**ROCKEFELLER
ACKNOWLEDGEMENT**

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014, by
Mark Singerman, the Vice President of Rock-Miramar, Inc., the sole member of Rock-Queen
Creek LLC, a Delaware limited liability company.

Notary Public

My Commission Expires:

SUNCAP

SunCap Phoenix, LLC, a North Carolina limited liability company

By: _____
(typed name) date
(title)

STATE OF ARIZONA)ss
)ss
County of _____)ss

**SUNCAP
ACKNOWLEDGEMENT**

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2014, by
_____, the _____ of _____.

Notary Public

My Commission Expires:

OCTOBER 3, 2013
PROJECT #9827

**LEGAL DESCRIPTION
CHANDLER CROSSROAD**

A PARCEL OF LAND BEING A PORTION THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN HAND HOLE MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 12, FROM WHICH A BRASS CAP IN HAND HOLE MARKING THE SOUTHEAST CORNER OF SAID SECTION 12 BEARS NORTH 89° 20' 15" EAST, A DISTANCE OF 2638.57 FEET;

THENCE NORTH 89° 20' 15" EAST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 60.76 FEET;

THENCE NORTH 00° 39' 45" WEST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 71.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER, SAID POINT BEING THE **POINT OF BEGINNING**;

THENCE NORTH 45° 22' 28" WEST, A DISTANCE OF 28.13 FEET TO A POINT ON THE EAST LINE OF THE WEST 40 FEET OF SAID SOUTHEAST QUARTER;

THENCE NORTH 00° 03' 22" WEST, ALONG SAID EAST LINE, A DISTANCE OF 1229.04 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SOUTHEAST QUARTER;

THENCE NORTH 89° 20' 37" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1670.09 FEET;

THENCE SOUTH 00° 03' 22" EAST, DEPARTING SAID NORTH LINE, A DISTANCE OF 1248.85 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 436.28 FEET;

THENCE SOUTH 00° 39' 45" EAST, A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 65 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 247.99 FEET;

THENCE NORTH 00° 39' 45" WEST, A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 965.82 FEET TO THE **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 2,087,020.23 SQUARE FEET OR 47.911 ACRES, MORE OR LESS.



EXPIRES 9/30/15

LEGAL DESCRIPTION OF PROPERTY B

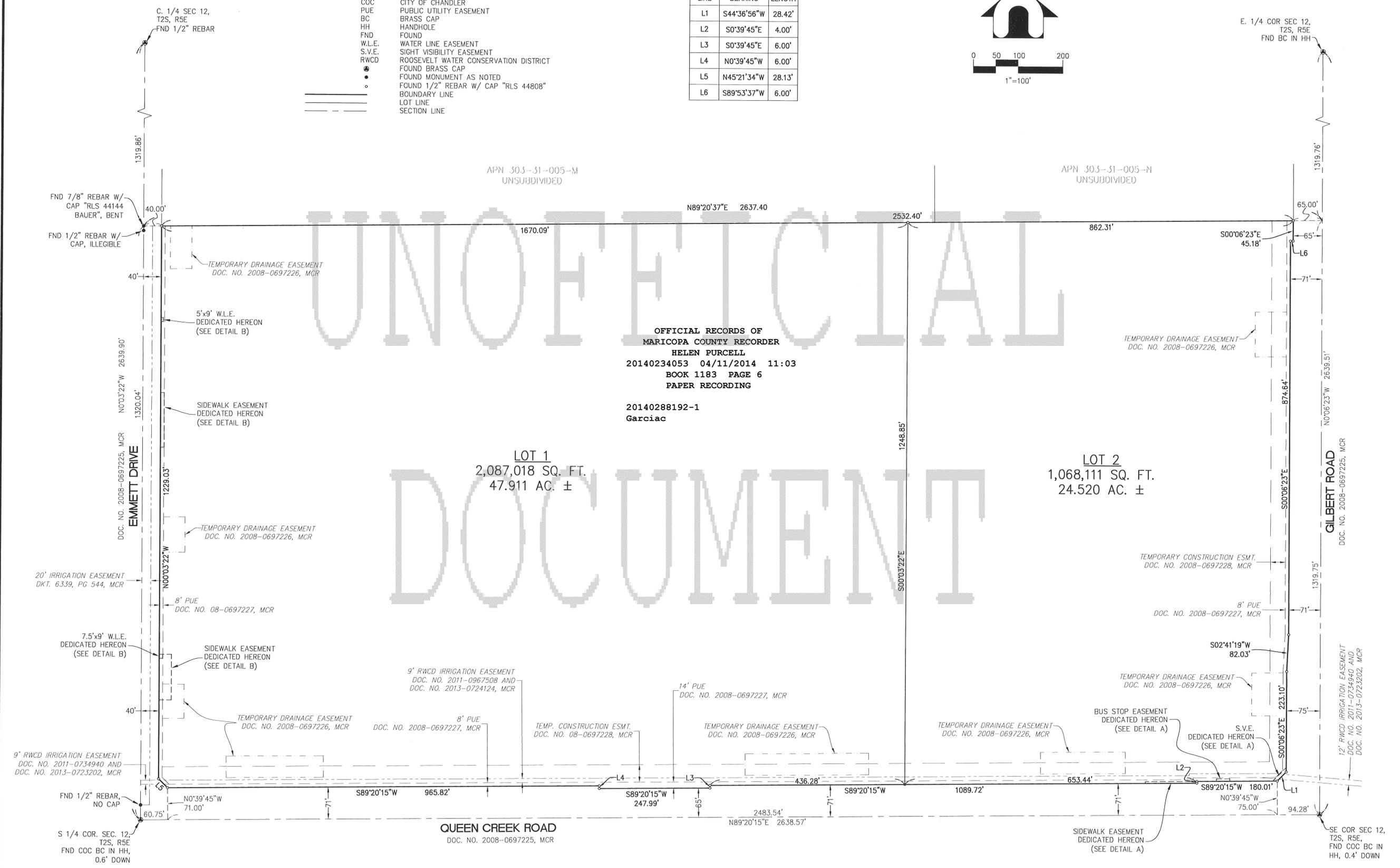
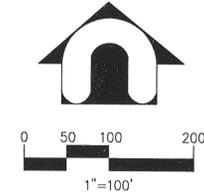
Lot 2, of a Minor Land Division known as CHANDLER CROSSROADS, according to Book 1183 of Maps, page 06, records of Maricopa County, Arizona, being a portion of the South Half of the Southeast quarter of Section 12, Township 2 South, Range 5 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Exhibit A-2

LEGEND

- MCR MARICOPA COUNTY RECORDER
- COC CITY OF CHANDLER
- PUE PUBLIC UTILITY EASEMENT
- BC BRASS CAP
- HH HANDHOLE
- FND FOUND
- W.L.E. WATER LINE EASEMENT
- S.V.E. SIGHT VISIBILITY EASEMENT
- RWCD ROOSEVELT WATER CONSERVATION DISTRICT
- FOUND BRASS CAP
- FOUND MONUMENT AS NOTED
- FOUND 1/2" REBAR W/ CAP "RLS 44808"
- ==== BOUNDARY LINE
- LOT LINE
- SECTION LINE

LINE	BEARING	LENGTH
L1	S44°36'56"W	28.42'
L2	S0°39'45"E	4.00'
L3	S0°39'45"E	6.00'
L4	N0°39'45"W	6.00'
L5	N45°21'34"W	28.13'
L6	S89°53'37"W	6.00'



OFFICIAL RECORDS OF
 MARICOPA COUNTY RECORDER
 HELEN PURCELL
 20140234053 04/11/2014 11:03
 BOOK 1183 PAGE 6
 PAPER RECORDING
 20140288192-1
 Garcias

DRAWN BY: RCH/LSO	CHECKED BY: TUL	DATE: 4/2/2014	REVISION	BY
<p>DAVID EVANS AND ASSOCIATES INC. 4600 East Washington Street, Suite 400 Phoenix, Arizona 85034 Phone: 602.278.5151</p>				
A MINOR LAND DIVISION MAP OF CHANDLER CROSSROADS CHANDLER, ARIZONA				
SCALE: 1"=100' SECTION: 12 TOWNSHIP: 2S RANGE: 5E SHEET 2 OF 3 JOB NO.: RKGPO000-0002 LOG NO.: MLD14-0002				

SEE SHEET 3 FOR ALL DEDICATED EASEMENT DETAILS

P:\R\KGP000000002\0400CAD\SV\2014_MLD\SV-MLD-02-03-RKGP0002.dwg rchu Apr 07, 2014 9:57:09am

PARKING CALCULATIONS

USE	SQ. FT.	RATIO	REQ.
OFFICE	18,671	1/250	75
WAREHOUSE	1,420	1/500	3
MANUFACTURING	287,192	1/1000	287
TOTAL REQUIRED			365
TOTAL PROVIDED			608
ACCESSIBLE SPACE REQUIRED=2%			
(608)(.02)=12 SPACES REQUIRED			
TOTAL ACCESSIBLE SPACES PROVIDED=12			

DISTRIBUTION CENTER SITE PLAN

NEC EMMETT DRIVE & QUEEN CREEK ROAD CHANDLER, ARIZONA

CIVIL ENGINEER

BOWMAN CONSULTING
1295 WEST WASHINGTON STREET
SUITE 108
TEMPE, AZ 85281
PHONE: 480.629.8830
CONTACT: JEFFERY RYBARCZYK P.E. # 026117

DEVELOPER:

SUNCAP PROPERTY GROUP
THE CARNEGIE BUILDING
6101 CARNEGIE BLVD.
SUITE 180
CHARLOTTE, NC 28209
PHONE: (704) 945-8000



ASSESSOR'S PARCEL NUMBER
303-31-005Q

SITE DATA

EXISTING ZONING: PAD
MAXIMUM ALLOWABLE BLDG HEIGHT: 45'

LOT AREA=2,070,020 SF=47.91 AC
LOT COVERAGE=15.0%

FIRE: INTERNAL FIRE PROTECTION
WILL BE PROVIDED BY A DRY FIRE SUPPRESSION SYSTEM

BUILDING AREA

MAIN BLDG: 303,369 SF
GATEWAY BLDG: 2,400 SF
VEHICLE GARAGE: 5,180 SF
TOTAL: 310,949 SF

LOT COVERAGE

310,949/2,070,020=15%

BASIS OF BEARING

BASIS OF BEARING IS THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID BEARING BEING:

NORTH 89 DEGREES 20 MINUTES 15 SECONDS EAST

BENCHMARK

SECTION 12, T2S, R5E, 3" CITY OF CHANDLER BRASS CAP IN CONCRETE, FLUSH, 200' NORTH OF INTERSECTION OF QUEEN CREEK RD AND COOPER RD; 23' EAST OF EDGE OF PAVEMENT. (NORTHING, 823412.906, EASTING, 733727.263 NAVD 88 ELEVATION 1239.57)

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 2 SOUTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN HAND HOLE MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 12, FROM WHICH A BRASS CAP IN HAND HOLE MARKING THE SOUTHEAST CORNER OF SAID SECTION 12 BEARS NORTH 89° 20' 15" EAST, A DISTANCE OF 2638.57 FEET;

THENCE NORTH 89° 20' 15" EAST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 60.76 FEET;

THENCE NORTH 00° 39' 45" WEST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 71.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER, SAID POINT BEING THE POINT OF BEGINNING;

THENCE NORTH 45° 22' 28" WEST, A DISTANCE OF 28.13 FEET TO A POINT ON THE EAST LINE OF THE WEST 40 FEET OF SAID SOUTHEAST QUARTER;

THENCE NORTH 00° 03' 22" WEST, ALONG SAID EAST LINE, A DISTANCE OF 1229.04 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF SAID SOUTHEAST QUARTER;

THENCE NORTH 89° 20' 37" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1670.09 FEET;

THENCE SOUTH 00° 03' 22" EAST, DEPARTING SAID NORTH LINE, A DISTANCE OF 1248.85 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 436.28 FEET;

THENCE SOUTH 00° 39' 45" EAST, A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 65 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 247.99 FEET;

THENCE NORTH 00° 39' 45" WEST, A DISTANCE OF 6.00 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 71 FEET OF SAID SOUTHEAST QUARTER;

THENCE SOUTH 89° 20' 15" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 965.82 FEET TO THE POINT OF BEGINNING;

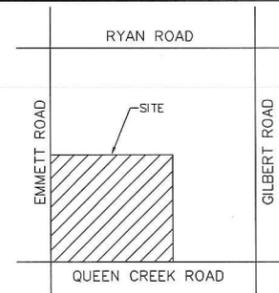
SAID PARCEL CONTAINS 2,087,020.23 SQUARE FEET OR 47.91 ACRES, MORE OR LESS.

PROJECT NARRATIVE

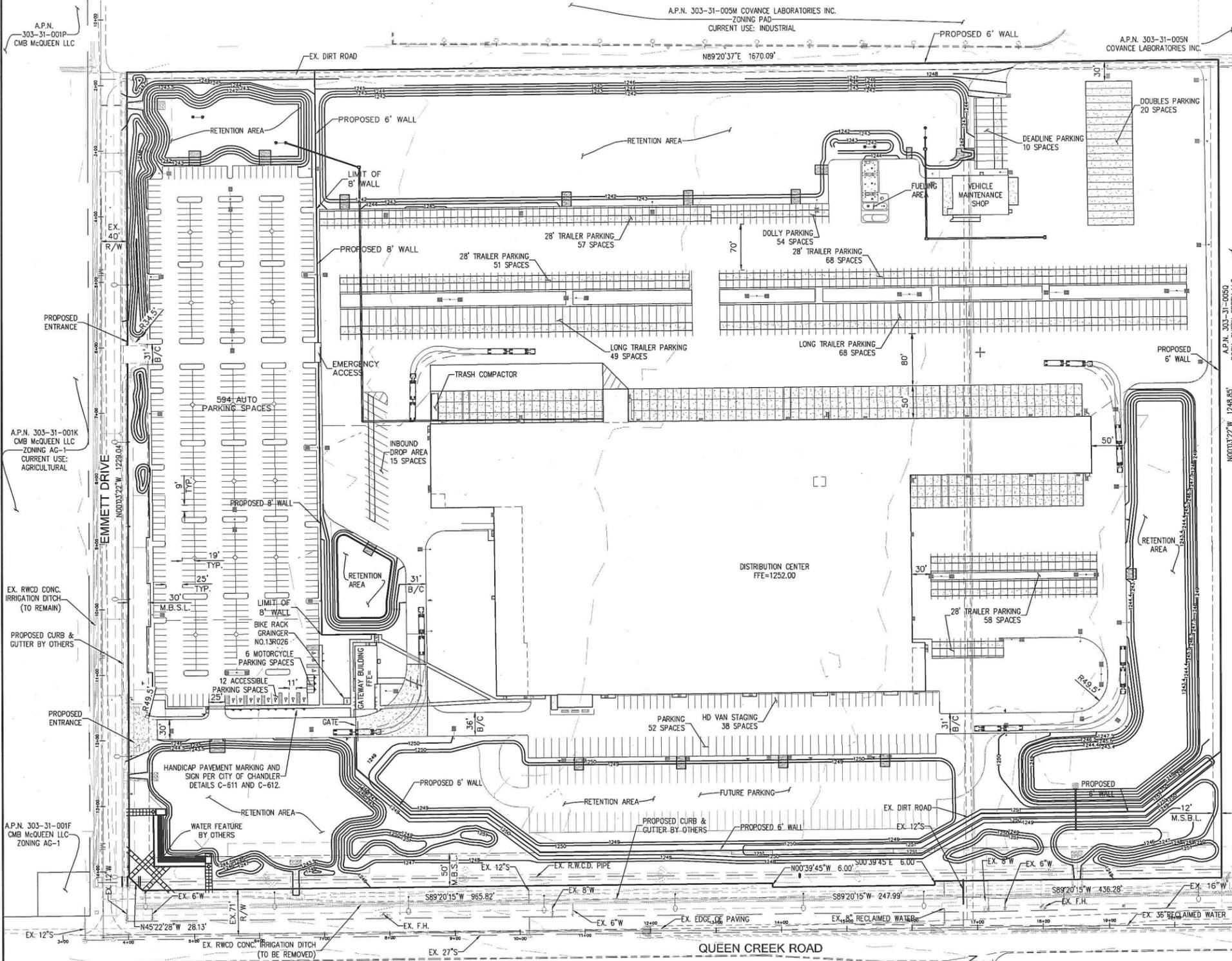
THE PROPOSED SITE IS LOCATED ON THE NORTH SIDE OF QUEEN CREEK ROAD JUST WEST OF THE INTERSECTION OF GILBERT ROAD. THE SITE CONSISTS OF 47.5 ACRES AND THE PROPOSED USE IS A DISTRIBUTION FACILITY WITH A TOTAL BUILDING AREA OF APPROXIMATELY 711,000 SQUARE FEET. ACCESS TO THE SITE WILL BE FROM EMMETT DRIVE WITH CONNECTIONS TO RYAN ROAD TO THE NORTH AND QUEEN CREEK ROAD TO THE SOUTH. THE PROJECT WILL CONNECT TO EXISTING WATER, SEWER AND RECLAIMED WATER FACILITIES LOCATED ADJACENT TO THE SITE. THE PROPOSED BUILDING WILL BE SCREENED WITH A PERIMETER WALL AND LANDSCAPING. THE PERIMETER WALL WILL BE SETBACK FROM QUEEN CREEK ROAD AND LANDSCAPING BERMS AND PLANT MATERIAL WILL BE PLACED IN THE AREA BETWEEN THE ROAD AND THE PERIMETER WALL.

NOTES

- ALL ROOF MOUNTED MECHANICAL EQUIPMENT SHALL BE FULLY SCREENED BY PARAPET WALLS EQUAL TO, OR GREATER THAN, THE HIGHEST POINT ON THE MECHANICAL EQUIPMENT.
- SOLID MASONRY WALLS AND GATES EQUAL TO, OR GREATER THAN, THE HIGHEST POINT ON THE MECHANICAL EQUIPMENT SHALL SCREEN ALL GROUND MOUNTED MECHANICAL EQUIPMENT THAT IS NOT ALREADY SCREENED BY THE PERIMETER WALL.
- ALL EXTERNAL LIGHTING SHALL BE LOCATED AND DESIGNED TO PREVENT RAYS FROM BEING DIRECTED OFF OF THE PROPERTY UPON WHICH THE LIGHTING IS LOCATED.
- SIGNS REQUIRE SEPARATE PERMIT.
- THERE SHALL BE NO OBSTRUCTION OF SITE SIGNAGE BY LANDSCAPE PLANT MATERIAL, AND THAT SUCH MUST BE RELOCATED/CORRECTED BEFORE THE FIELD INSPECTION WILL ACCEPT/PASS THE SIGN IN THE FIELD OR ISSUE A CERTIFICATE OF OCCUPANCY FOR A PROJECT.
- THE FIRE DEPARTMENT DOUBLE CHECK ASSEMBLY SHALL BE PAINTED TO MATCH ADJACENT WALL COLOR.
- ALL SITE IMPROVEMENTS, INCLUDING LANDSCAPING AND SITE CLEAN-UP, MUST BE COMPLETED PRIOR TO CERTIFICATE OF OCCUPANCY FOR ANY BUILDING.



VICINITY MAP
NTS



Bowman CONSULTING

Bowman Consulting Group, Ltd.
3010 South Priest Drive Ste 103
Tempe, Arizona 85282
Phone: (480) 629-8830
www.bowmanconsulting.com
© Bowman Consulting Group, Ltd.

SITE PLAN
DISTRIBUTION CENTER
NEC EMMETT DRIVE & QUEEN CREEK ROAD
CHANDLER, ARIZONA
MARICOPA COUNTY

PROJECT NUMBER

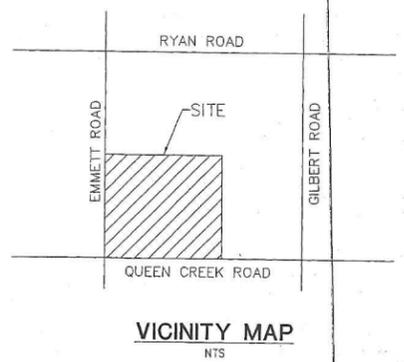
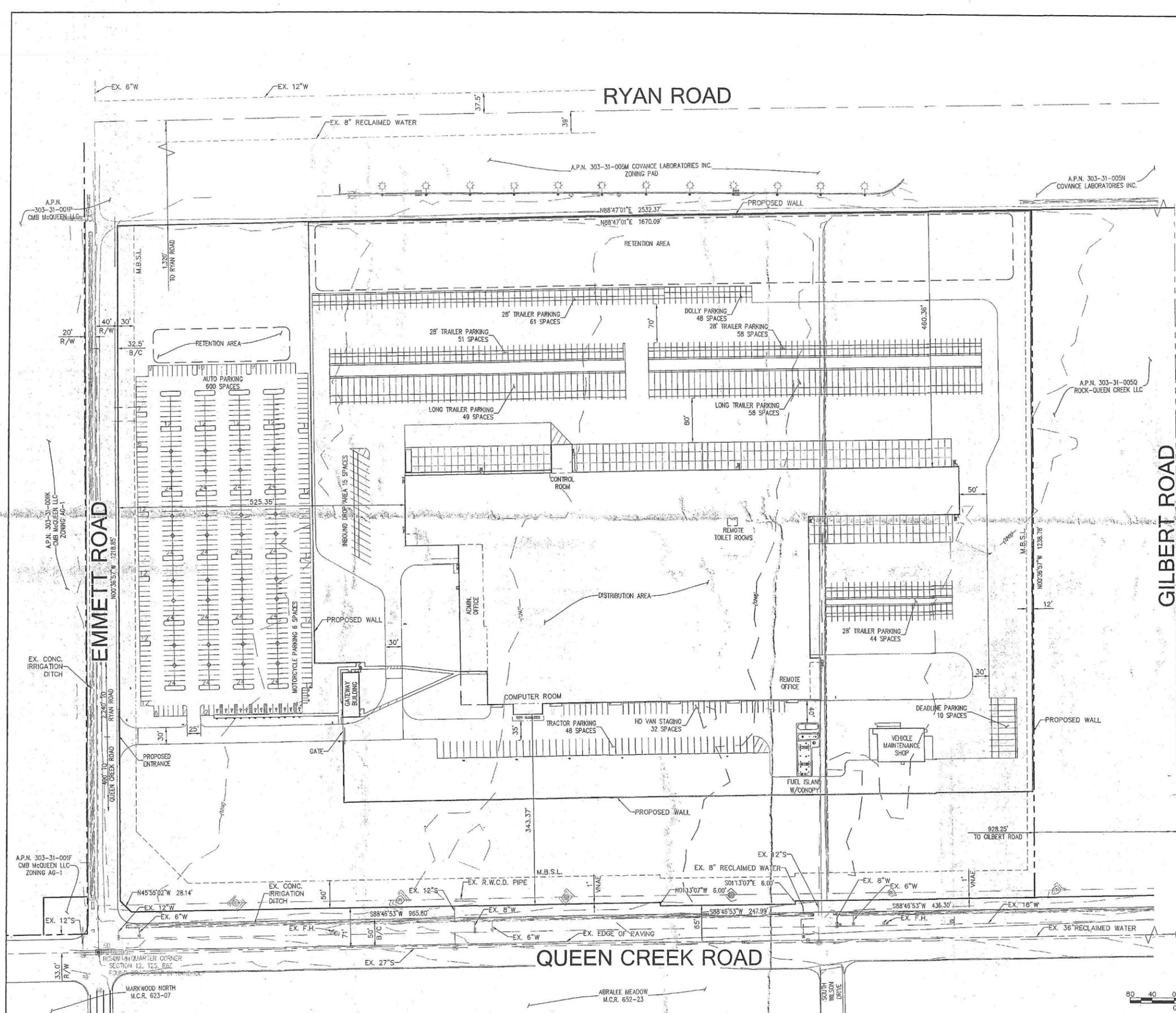
JEFFERY SCOTT RYBARCZYK

PLAN STATUS

DATE	DESCRIPTION
JR DESIGN	AAC DRAWN
DTP	CHKD
SCALE	H: AS NOTED V: NONE
JOB No.	9827-01-001
DATE	04/01/14

C1.7
SHEET 7 OF 20

EXHIBIT B



ASSESSOR'S PARCEL NUMBER
303-31-0050

SITE DATA
EXISTING ZONING: PAD
MAXIMUM ALLOWABLE BLDG HEIGHT: 45'
LOT AREA=2,070,108 SF=47.52 AC
LOT COVERAGE=15.0%
FIRE: INTERNAL FIRE PROTECTION
WILL BE PROVIDED BY A DRY FIRE SUPPRESSION SYSTEM

BUILDING AREA
MAIN BLDG. 303,369 SF
GATEWAY BLDG. 2,400 SF
VEHICLE GARAGE: 5,180 SF
TOTAL: 310,949 SF

PROJECT NARRATIVE
THE PROPOSED SITE IS LOCATED ON THE NORTH SIDE OF QUEEN CREEK ROAD JUST WEST OF THE INTERSECTION OF GILBERT ROAD. THE SITE CONSISTS OF 47.5 ACRES AND THE PROPOSED USE IS A DISTRIBUTION FACILITY WITH A TOTAL BUILDING AREA OF APPROXIMATELY 310,000 SQUARE FEET. ACCESS TO THE SITE WILL BE FROM EMMETT ROAD WITH CONNECTIONS TO RYAN ROAD TO THE NORTH AND QUEEN CREEK ROAD TO THE SOUTH. THE PROJECT WILL CONNECT TO EXISTING WATER, SEWER AND RECLAIMED WATER FACILITIES LOCATED ADJACENT TO THE SITE. THE PROPOSED BUILDING WILL BE SCREENED WITH A PERIMETER WALL AND LANDSCAPING. THE PERIMETER WALL WILL BE SETBACK APPROXIMATELY 150 FEET FROM QUEEN CREEK ROAD AND LANDSCAPING BERMS AND PLANT MATERIAL WILL BE PLACED IN THE AREA BETWEEN THE ROAD AND THE PERIMETER WALL.

OWNER
ROCK-QUEEN CREEK LLC
1221 AVENUE OF AMERICAS
NEW YORK, NY 10020

DEVELOPER
SUNCAP PROPERTY GROUP
THE CARNEGIE BUILDING
6101 CARNEGIE BLVD.
SUITE: 180
CHARLOTTE, NC 28209
PHONE: (704) 945-8000

CIVIL ENGINEER
BOWMAN CONSULTING
3010 SOUTH PRIEST DRIVE
SUITE 103
TEMPE, AZ 85282
PHONE: 480.629.8830
ENGINEER: TROY PETERSON
CONTACT: JEFFERY RYBARCZYK P.E. # 028117

Bowman
CONSULTING

Bowman Consulting Group, Ltd.
3010 South Priest Drive, Ste. 103
Tempe, Arizona 85282
Phone: (480) 629-8830
www.bowmanconsulting.com
© Bowman Consulting Group, Ltd.

PRELIMINARY TECHNICAL SITE PLAN
DISTRIBUTION CENTER
NWC GILBERT ROAD & QUEEN CREEK ROAD
CHANDLER, ARIZONA
MARICOPA COUNTY

PROJECT NUMBER

DATE	DESCRIPTION
JSR	AAC DTP
DESIGN	DRAWN CHKD
SCALE	H: 1"=87'
	V: NONE
JOB No.	9827-01-001
DATE	09/24/13

PR-1
SHEET 1 OF 1



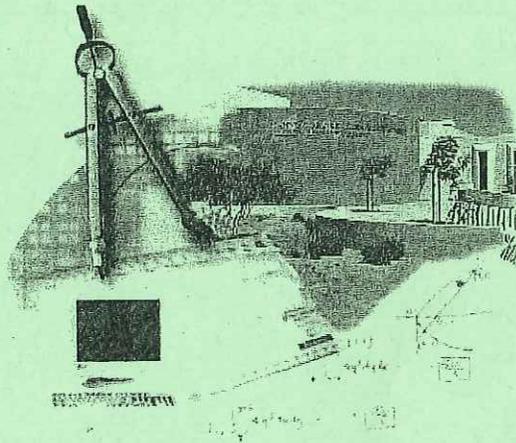
EXHIBIT C

EXHIBIT E

EXHIBIT F

Engineering General Information

Planning and Development Services and Public Works



Mayor Jay Tibshraeny

City Council

Boyd Dunn (Vice Mayor)
Dean Anderson
Patti Bruno
Lowell Huggins
Donna Wallace
Phill Westbrooks



Chandler + Arizona

January 2002

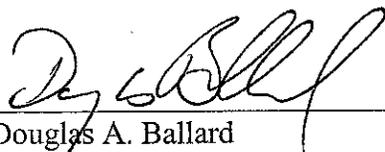
Welcome to the City of Chandler. We are happy you chose our community as a site for your development. We look forward to forging an effective and productive working relationship with you. We hope this relationship will result in your plans becoming a reality of which we can all be proud.

This **Engineering General Information** guide has been prepared as a service to our development community customers. It contains a wealth of information about the City of Chandler's development process. Specifically, this document addresses civil engineering requirements, engineering design standards, fees, charges, and assessments.

This manual is intended as a useful reference tool that will provide the developer and the design team with a basic understanding of the City's development process. We hope you will take a few moments to familiarize yourself with this document and will refer to it on a regular basis.

Thank you for your interest in the City of Chandler. We look forward to working with you.

Sincerely,



Douglas A. Ballard
Planning & Development Director



Elizabeth M. Huning
Asst. Public Works Director/City Engineer

CREDIT PROCEDURES:

1. Credit will be issued only for those construction items for which the City has imposed a system development fee.
2. Credit toward system development fees may be issued if a developer has installed the system improvements or infrastructure as part of the development.
3. Credit will only be given for system improvements that are constructed and accepted by the City prior to issuance of building permits. Credits and/or refunds will not be given for deferred improvements.
4. Credit may be given by phase for infrastructure (water, sewer, arterial streets, etc.) phasing. Each phase of a project must be approximately one-quarter section of land.
5. Credit for sewer lines larger than 15" diameter will be limited to the Wastewater Trunk lines System Development fee.
6. In redevelopment areas (not including in-fill areas) credit will be given to the new development for the system impact associated with the prior use.
7. Credit runs with the land and cannot be transferred.
8. Right-of-Way (ROW), and other fee land, to be dedicated on the plat, or conveyed to the City, will be based on ultimate need of the system, as determined by the City Engineer.

CALCULATION OF CREDIT:

1. Developers will receive credit in an amount not to exceed the amount of the system development fee.
2. The credit is calculated at the time of platting or approval of the site plan, and is given at the time of issuance of the building permit, unless an Impact Fee Credit Deferral Agreement has been executed.
3. Credit will be calculated using current City construction cost estimates. This credit will be distributed proportionally to all the land within the PAD area. Arterial Street fee credit will be distributed based on the PM peak trip generation of the land uses within the PAD area.
4. Road and utility ROW will be credited at \$3.00 per square foot, including appraisal fees, title costs and survey costs. Easements do not receive credit.
5. The credit for other land conveyed to the City will be based on the appraised value of the property, as approved by the City Engineer.
6. Credit must be applied for on the City-provided forms, included in Appendix D. This application must include the following:
 - Completed Arterial Street Impact Fee Credit Checklist signed by the property owner.
 - Hardcopy and disk copy of land use data table in Microsoft Excel format.

Also, in accordance with City Code and as applied to all development projects within the Arterial Street Impact Fee area, a credit is applied against the Arterial Street fee portion of the current System Development Fees for any work completed on an Arterial Street within the Arterial Street Impact Fee Area. As a stipulation, this credit cannot exceed the maximum amount of the Arterial Street Fee for the project. Typically, a developer installs the Arterial Street and then applies the credits against the property, which the City maintains in perpetuity against future Arterial Street Impact Fees. When a future development obtains their building permits, the credit is already applied against the Arterial Street Impact Fee charged so that money does not change hands with the City.

Rockefeller has sold an estimated 48 acres of the western section of Chandler Crossroads to SunCap Phoenix, LLC (SunCap). SunCap plans to construct an industrial development in accordance with the existing zoning. As part of our System Impact Fees, SunCap is required to pay the Arterial Street Impact Fee in accordance with the City Code when they are issued their building permit. Since Queen Creek Road will be under construction in conjunction with the industrial development, SunCap ordinarily would pay the fee and then receive the refund back to them as soon as Rockefeller completes Queen Creek Road as the credit remains with the land and not the developer of the Arterial Street.

Since Rockefeller will be depositing cash with the City to secure their work in the public right of way, Staff recommends that the credits be applied to SunCap's building permit in advance of the work being completed. SunCap would then be required to pay any additional amount of the Arterial Street Impact Fee that is not covered by the credits available for the construction of Queen Creek Road adjacent to their parcel. Further, all other Plan Review, Building Permit, and Systems Impact Fees would be paid upon issuance of the building permits to SunCap.

FINANCIAL IMPLICATIONS: There are no financial implications for City of Chandler. A cash deposit will be made to the City of Chandler for the amount of the public improvements, which would allow the City to complete the public improvements should the developer default.

PROPOSED MOTION: Move City Council adopt Resolution No. 4766 authorizing the execution of a Development Agreement with the City of Chandler, SunCap Phoenix, LLC and Rock-Queen Creek, LLC, authorizing Arterial Street Impact Fee Credits for Queen Creek Road be applied to Chandler Crossroads Phase I System Impact Fees of the building permits prior to the completion of Queen Creek Road, and authorize the Mayor to sign all related documents as approved by the City Attorney.

Attachments: Resolution No. 4766

Site Map

#15

MAY 8 2014



Chandler • Arizona
Where Values Make The Difference

MEMORANDUM Economic Development – Council Memo ED14-014

DATE: APRIL 22, 2014

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
 MARSHA REED, ASSISTANT CITY MANAGER *MR*

FROM: CHRISTINE MACKAY, ECONOMIC DEVELOPMENT DIRECTOR

SUBJECT: RESOLUTION NO. 4766 AUTHORIZING THE EXECUTION OF A
 DEVELOPMENT AGREEMENT WITH SUNCAP PHOENIX, LLC &
 ROCK-QUEEN CREEK LLC

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 4766 authorizing the execution of a Development Agreement with the City of Chandler, SunCap Phoenix, LLC and Rock-Queen Creek, LLC, authorizing Arterial Street Impact Fee Credits relating to Queen Creek Road, be applied to Chandler Crossroads Phase I System Impact Fees of the building permits prior to the completion of Queen Creek Road, and authorize the Mayor to sign all related documents as approved by the City Attorney.

BACKGROUND/DISCUSSION: Rockefeller Development Corporation, dba Rock-Queen Creek, LLC, (Rockefeller) acquired the land site known as Chandler Crossroads, at the NWC of Queen Creek and Gilbert Roads, in 2008 and subsequently zoned it for a business park. As part of the their development requirements, as defined in the Planned Area Development (PAD) and Preliminary Development Plan (PDP), Rockefeller is required to improve Queen Creek Road to City Transportation Plan standards and install the extension of Emmett Road for the frontage of their property. Rockefeller will be starting construction on these improvements in the next few weeks with a planned completion in late 2014.

City Code requires the developer to submit a performance bond in the amount of the work, and instead Rockefeller has requested to deposit cash to the City in the amount of the work to be completed in the public right of way.

of the current System Development Fees for any work completed on an Arterial Street within the Arterial Street Impact Fee Area. As a stipulation, this credit cannot exceed the maximum amount of the Arterial Street Fee for the project. Typically, a developer installs the Arterial Street and then applies the credits against the property, which the City maintains in perpetuity against future Arterial Street Impact Fees. When a future development obtains their building permits, the credit is already applied against the Arterial Street Impact Fee charged so that money does not change hands with the City.

Rockefeller has sold an estimated 48 acres of the western section of Chandler Crossroads to SunCap Phoenix, LLC (SunCap). SunCap plans to construct an industrial development in accordance with the existing zoning. As part of our System Impact Fees, SunCap is required to pay the Arterial Street Impact Fee in accordance with the City Code when they are issued their building permit. Since Queen Creek Road will be under construction in conjunction with the industrial development, SunCap ordinarily would pay the fee and then receive the refund back to them as soon as Rockefeller completes Queen Creek Road as the credit remains with the land and not the developer of the Arterial Street.

Since Rockefeller will be depositing cash with the City to secure their work in the public right of way, Staff recommends that the credits be applied to SunCap's building permit in advance of the work being completed. SunCap would then be required to pay any additional amount of the Arterial Street Impact Fee that is not covered by the credits available for the construction of Queen Creek Road adjacent to their parcel. Further, all other Plan Review, Building Permit, and Systems Impact Fees would be paid upon issuance of the building permits to SunCap.

FINANCIAL IMPLICATIONS: There are no financial implications for City of Chandler. A cash deposit will be made to the City of Chandler for the amount of the public improvements, which would allow the City to complete the public improvements should the developer default.

PROPOSED MOTION: Move City Council adopt Resolution No. 4766 authorizing the execution of a Development Agreement with the City of Chandler, SunCap Phoenix, LLC and Rock-Queen Creek, LLC, authorizing Arterial Street Impact Fee Credits for Queen Creek Road be applied to Chandler Crossroads Phase I System Impact Fees of the building permits prior to the completion of Queen Creek Road, and authorize the Mayor to sign all related documents as approved by the City Attorney.

Attachments: Resolution No. 4766

Site Map

RESOLUTION NO. 4766

A RESOLUTION OF THE CITY OF CHANDLER, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT AMONG THE CITY OF CHANDLER AND ROCK-QUEEN CREEK, LLC, AND SUNCAP PHOENIX, LLC, RELATING TO REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF QUEEN CREEK ROAD AND GILBERT ROAD.

WHEREAS, SunCap Phoenix, LLC (“SunCap”) and Rock-Queen Creek, LLC (“Rock-Queen Creek”) desire to develop certain real property in Chandler, Arizona, located at the northwest corner of Queen Creek Road and Gilbert Road; and

WHEREAS, the City of Chandler (“City”) believes that development is beneficial to both SunCap and Rock-Queen Creek as well as to the citizens of Chandler, Arizona;

WHEREAS, the City, SunCap, and Rock-Queen Creek wish to enter into a development agreement, in accordance with A.R.S. §9-500.05, to address certain matters related to the development of the subject property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Maricopa County, Arizona, as follows:

Section 1. Approves the City of Chandler entering into a Development Agreement with SunCap and Rock-Queen Creek in substantially the form attached hereto as Exhibit “A” and incorporated herein by this reference.

Section 2. Authorize the Mayor of the City of Chandler to execute the Development Agreement and related documents for and on behalf of the City of Chandler.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of May, 2014.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

Chandler City Attorney (*kb*)

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4766 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the ___ day of May, 2014, and that a quorum was present thereat.

CITY CLERK



Vicinity Map



Northeast Corner of Queen Creek and Emmet Roads

