

#8

SEP 08 2014



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Where Values Make The Difference

MEMORANDUM

Planning Division – CC Memo 14-106

DATE: SEPTEMBER 8, 2014

TO: MAYOR AND COUNCIL

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

FROM: JEFF KURTZ, PLANNING ADMINISTRATOR *JK*

SUBJECT: DEVELOPMENT AGREEMENT WITH HINES INTERESTS, LP

RECOMMENDATION

Staff recommends City Council adopt Resolution No. 4786 authorizing the execution of a Development Agreement with Hines Interests, LP, authorizing the advance payment of System Development Fees, to be applied to Chandler Viridian building permits, and set deadline for demolition of structure on Property, and authorize the Mayor to sign the Development Agreement and the City Manager to sign all related documents as approved by the City Attorney.

BACKGROUND/DISCUSSION

Hines Interests, LP, is in the process of developing a multiple phase mixed-use project on property located adjacent to Chandler Fashion Center. The development is one containing two distinct land use areas that in the City's opinion is dependent upon both land use area phases developing in order to achieve the proposed integrated development quality. It is expected that the multi-family residential phase will begin development prior to the commercial (office, hotel, retail, and parking garage) phase yet is an integral part of the viability of the commercial phase.

To that end, the City has sought assurances from the developer that both development phases will occur and will occur in a timely manner. The proposed rezoning documents include a phasing plan representing certain phasing expectations. Further, Staff is recommending that Mayor and Council enter into a Development Agreement that advances the entire development's estimated System Development Fees with the initial development phase (multi-family portion). The developer concurs with this agreement

evidencing the intent to construct the entire development in the mixed land use arrangement.

Additionally, the property contains a partially built concrete structure that both parties desire to have demolished. The Development Agreement contains a provision, independent of any new development activity on the property, which causes the developer to perform and demolish the existing structure commencing in January 2015. The developer will provide a financial assurance by funding an escrow reserve account dedicated to the structure's removal. It is expected that the demolition activity, due to the structure's construction methodology, will be in the form of a dismantling process.

FINANCIAL IMPLICATIONS

There are no financial implications affecting the City. The System Development Fees to be paid with the initial permits are estimated at a total of \$4,820,570 split at \$3,327,200 for the multi-family portion and \$1,493,370 for the commercial portion.

PROPOSED MOTION

Move City Council to adopt Resolution No. 4786 authorizing the execution of a Development Agreement with Hines Interests, LP, authorizing the advance payment of System Development Fees to be applied to Chandler Viridian building permits and set deadline for demolition of structure on Property, and authorize the Mayor to sign the Development Agreement and the City Manager to sign all related documents as approved by the City Attorney.

Attachments: Resolution No. 4786
Development Agreement

RESOLUTION NO. 4786

A RESOLUTION OF THE CITY OF CHANDLER, ARIZONA, APPROVING THE TERMS AND CONDITIONS OF THE CHANDLER VIRIDIAN DEVELOPMENT AGREEMENT; AUTHORIZING EXECUTION OF THE DEVELOPMENT AGREEMENT BY THE MAYOR; AND AUTHORIZING EXECUTION BY THE CITY MANAGER OF ALL SUBSEQUENT DOCUMENTATION NECESSARY TO EFFECTUATE THE DEVELOPMENT AGREEMENT.

WHEREAS, the Mayor and Council approved Ordinance 4551 rezoning the real property as described in the legal descriptions for Lots 1 and 2 incorporated into the Chandler Viridian Development Agreement (the "Development Agreement") as Exhibits A-1 and A-2; and

WHEREAS, the Mayor and Council required, as a part of their approval of Ordinance 4551, a development agreement (in accordance with A.R.S. § 9-500.05) setting forth certain development obligations and rights of the developer and owners of the Property; and

WHEREAS, the developer and owners have agreed to such development obligations and rights as set forth in the Agreement, attached hereto as Exhibit A and incorporated herein by this reference; and Council;

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. APPROVAL OF DEVELOPMENT AGREEMENT. The Mayor and Council approve the terms and conditions in the Development Agreement and authorize execution of same by Mayor.

SECTION 2. EXECUTION OF THE ESCROW AGREEMENT. The Mayor and Council authorize execution of the Escrow Agreement (in the form attached to the Development Agreement as Exhibit F) and any other documents necessary to effectuate the provisions of the Development Agreement.

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY (*kl*)

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4786 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the _____ day of _____, 2014, and that a quorum was present thereat.

CITY CLERK

When recorded, return to:
City of Chandler
Post Office Box 4008, Mailstop 606
Chandler, AZ 85225
Attn: City Clerk

DEVELOPMENT AGREEMENT
between

CITY OF CHANDLER, ARIZONA,
an Arizona municipal corporation

and

CHANDLER UNIMPROVED PROPERTY HOLDINGS, LLC,
a Delaware limited liability company
as Developer

Approved by City Council
September 8, 2014

CHANDLER VIRIDIAN DEVELOPMENT AGREEMENT

ARTICLE 1. INTRODUCTION

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is made by and between the CITY OF CHANDLER, ARIZONA, an Arizona municipal corporation (“**Chandler**”) and CHANDLER UNIMPROVED PROPERTY HOLDINGS, LLC, a Delaware limited liability company (“**Developer**”). Chandler and Developer are referred to in this Agreement, collectively as “**Parties**,” and individually as “**Party**.”

ARTICLE 2. RECITALS

WHEREAS, approximately 11.5 acres of the subject Property, as defined in the legal description attached hereto as Exhibit A-1 for Lot 1, is owned by (a) Price & Frye Investments LLC, a California limited liability company, which owns a 97.564% undivided interest as a tenant-in-common (hereinafter referred to as the “**Elevation Chandler Owner**”), and (b) Developer, which owns a 2.436% undivided interest as a tenant-in-common; and

WHEREAS, approximately 15 acres of the subject Property, as defined in the legal description attached hereto as Exhibit A-2 for Lot 2, is owned by Propcor Associates, an Arizona general partnership (hereinafter referred to as the “**PropCor Owner**”); and

WHEREAS, the Elevation Chandler Owner and PropCor Owner are hereinafter collectively referred to as Owners; and

WHEREAS, Lot 1 and Lot 2 are hereinafter collectively referred to as the Property; and

WHEREAS, the Developer and Owners desire to vest the PAD Zoning and PDP, as defined in Section 5.2 below, with respect to the Property for a multi-use development that is intended to be developed in multiple phases over the next four (4) to six (6) years depending upon market conditions, and

WHEREAS, Developer has entered into a Purchase Agreement with the Elevation Chandler Owner to purchase its 97.564% tenant-in-common interest in Lot 1 (Elevation Chandler Purchase Agreement), which purchase will be consummated after Chandler’s approval of the PAD Zoning, PDP and this Agreement for commercial, hotel, and retail land uses as established in the Chandler Viridian Development Booklet, dated _____, 2014, held by Chandler City Clerk Office as a public record as part of Chandler zoning case DVR 14-0012 and Ordinance 4551 and incorporated herein as Exhibit B; and

WHEREAS, Developer has entered into a Purchase Agreement with the PropCor Owner (PropCor Purchase Agreement) to purchase Lot 2, which purchase will be consummated after Chandler’s approval of the PAD Zoning, PDP and this Agreement for multi-family residential and commercial land uses as set forth in Exhibit B; and

WHEREAS, the closing of escrow for the Developer’s purchase of the Elevation Chandler Owner’s 97.564% tenant-in-common interest in Lot 1 is scheduled to occur on or about sixty (60) days following Chandler’s approval of the PAD Zoning, PDP, and this Agreement, and

WHEREAS, the closing of escrow for the Developer's purchase of Lot 2 is scheduled to occur not later than sixty (60) days following Chandler's approval of the PAD Zoning, PDP, and this Agreement; and

WHEREAS, the Owners of the Property have consented to the PAD Zoning, PDP, and this Agreement, by their signatures on this Agreement; and

WHEREAS, Chandler desires to grant approvals for an integrated multi-use and multi-staged development as outlined in Exhibit B; and

WHEREAS, Chandler's approval of the PAD Zoning, PDP and this Agreement is premised on Developer's commitment to construct all of the mixed land uses in the Project as interdependent land uses containing both multi-family residential and non-residential commercial land uses;

NOW THEREFORE in consideration of the foregoing recitals and representations and the mutual covenants and conditions in this Agreement, the Parties agree as follows:

ARTICLE 3. DEFINITIONS

3.1 In this Agreement, unless a different meaning clearly appears from the context:

3.1.1 "Agreement" means this Agreement, as amended or supplemented in writing from time to time as set forth in Section 8.18. The Exhibits incorporated herein and/or attached hereto are, by this reference, incorporated into and made a part of this Agreement with the same force and effect as if fully set forth in the body of the Agreement.

3.1.2 "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.

3.1.3 "A.R.S." means the Arizona Revised Statutes. When this Agreement refers to specific statute(s), it means the specific statute as it exists on the Effective Date as well as hereafter amended.

3.1.4 "Business Day" means a day other than Saturday, Sunday, or a legal holiday as declared by the City of Chandler.

3.1.5 "Chandler" means the City of Chandler, an Arizona municipal corporation (and any successor public body hereafter designated by or pursuant to law).

3.1.6 "Cure Plan" means as described in Section 8.5.2.2.

3.1.7 "Default" means as described in Section 8.5 of this Agreement.

3.1.8 "Developer" means the Developer described in Article I above duly authorized to do business in Arizona, and any and all purchasers of any portion of the Property, or any successor owner of the Property or a portion thereof as established herein at Article 6.

3.1.9 "Effective Date" means the date defined in Section 4.1.

3.1.10 "Grace Period" means as described in Section 8.5.

3.1.11 “**Notice of Default**” means as described in Section 8.5.1.

3.1.12 “**Owners**” shall mean as detailed in the Recitals in Article 2.

3.1.13 “**PAD Zoning**” means as described in Section 5.2.

3.1.14 “**Party**” and “**Parties**” mean as detailed in Article 1

3.1.15 “**PDP**” means as described in Section 5.2.

3.1.16 “**Person**” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

3.1.17 “**Property**” means as described in the Recitals in Article 2 and as legally described in Exhibits A-1 and A-2.

3.1.18 “**Project**” means the development as described in the PAD Zoning, the PDP and this Agreement.

3.1.19 “**Public Infrastructure Improvements**” means as described in Section 5.8.

3.1.20 “**Prepaid Commercial SDF**” means as described in Subsection 5.4.

ARTICLE 4. EFFECTIVE DATE & TERM

4.1 Effective Date.

4.1.1 The Effective Date of this Agreement is the date on which the last of the following events has occurred:

4.1.1.1. Chandler Ordinance 4551 approving the PAD Zoning, as defined in Section 5.2, for the Property is effective, final and not subject to referendum;

4.1.1.2. Authorized representatives of all Parties and Owners have executed this Agreement;

4.1.1.3. This Agreement has been recorded with respect to the Property with the office of the Maricopa County Recorder.

4.2 Term.

The term of this Agreement (“**Term**”) shall be six (6) years from the Effective Date; provided, however, that if Developer has not paid the Prepaid Commercial SDF as described in Section 5.4 below on or before the first anniversary of the date of recordation of this Agreement, then Developer shall be deemed to be in default under this Agreement and Chandler may elect to exercise some limited remedies as a result of such Event of Default which shall include only the right to (i) withhold the issuance of building permits pursuant to the provisions of Section 8.6 below, (ii) terminate this Agreement by written notice to the Developer, which termination shall be effective thirty (30) days following the date of such notice of termination unless such Event of Default is cured in accordance with Section 8.5, and/or (iii) reverse the PAD Zoning and PDP granted by Ordinance #4551 such that the former zoning which existed prior to adoption of Ordinance #4551 replaces the PAD Zoning and PDP since approval of the PAD Zoning and PDP were dependent on compliance with the terms and conditions of this Agreement. No Owner or

any other Person other than Chandler shall have any rights or remedies as a result of the failure of the Developer to pay the Prepaid Commercial SDF as and when required in this Agreement.

ARTICLE 5. DEVELOPMENT PROVISIONS

5.1 Purpose of Development Agreement.

This Agreement establishes conditions and imposes obligations on Developer on which Chandler was willing to approve the PAD Zoning and PDP.

5.2 Concurrent Zoning Request.

In addition to consideration of this Agreement, Chandler considered the Developer's request for approval of Planned Area Development zoning designation ("PAD Zoning") for the Property along with a Preliminary Development Plan (the "PDP") both under Chandler case number DVR 14-0012, Chandler approved the PAD Zoning by Ordinance No. 4551 and the PDP by motion during two public meetings in August 2014.

5.3 Demolition of Existing Structure.

5.3.1 Schedule for Demolition. The Developer shall apply for a demolition permit for the existing partially-completed structure currently located on Lot 1 and shall thereafter commence and complete such demolition in accordance with the Demolition Schedule set forth in *Exhibit "G"* attached hereto and incorporated herein by this reference (the "**Demolition Schedule**"). Failure to complete the demolition of the existing structure currently located on Lot 1 as and when required pursuant to the Demolition Schedule shall be an event of default for which Chandler may, upon following the process set forth in Section 8.5, access the Escrow Funds as defined in Subsection 5.3.2 and demolish the existing structure. If Chandler's cost to demolish the existing structure is greater than the Escrow Funds, the Developer will reimburse the additional cost to Chandler within thirty (30) days after Chandler delivers to Developer an itemization of the cost overages. The obligation of Developer to demolish the existing structure within the detailed timeline set forth in the Demolition Schedule is required whether or not Developer is the owner of Lot 1 inasmuch as, by their execution of this Agreement, the Elevation Chandler Owners have given their irrevocable consent and temporary easements for such demolition. For the avoidance of doubt, the obligation to demolish the existing structure on Lot 1 and to deposit the Escrow Funds required pursuant to Subsection 5.3.2 below is the obligation of the Developer named herein and not the obligation of the Elevation Chandler Owner.

5.3.2 Escrow of Funds for Demolition of Existing Structure. Within three (3) days following the Effective Date of this Agreement, the Developer will deposit \$300,000 into an escrow agreement with joint escrow instructions to Fidelity National Title Agency, as Escrow Agent, allowing the Developer or Chandler (in accordance with Subsection 5.3.1), to access the Escrow Funds to demolish the existing structure on Lot 1. Any Escrow Funds remaining after demolition shall be remitted by Escrow Agent to (a) Chandler as Prepaid Commercial SDF as set forth in Section 5.4 below if Developer is the then Owner of the entirety of Lot 1, or (b) if Developer is not then the Owner of the entirety of Lot 1, to Developer. The Escrow Funds shall be held in an escrow account established with Escrow Agent pursuant to an Escrow Agreement in the form attached

hereto as Exhibit F, which Escrow Agreement shall be executed by the Developer, Chandler and the Escrow Agent concurrently with the execution of this Agreement.

5.4 Prepaid Commercial SDF. Prior to, or concurrently with, and as a condition of the issuance of a building permit for the first multi-family residential phase within the Project, Developer will pay Chandler for the estimated amount of the total non-Water System Development Fees (SDF) as set forth in Exhibit C at the same time as Developer pays its SDF for water and all other infrastructure for the multi-family residential portion of the Project. This prepayment obligation will be hereinafter referred to as “Prepaid Commercial SDF”. The Prepaid Commercial SDF is an amount based on estimated square footage of the non-residential and commercial uses in the Project which will be held in a Chandler deposit account for application to the Developer’s future non-Water SDF that will be outstanding at the issuance of building permits for the non-residential and commercial uses within the Property. Prior to the issuance of future building permits for non-residential development, the Developer will be responsible for the payment of Water system development fees and any additional non-Water SDF that may be due if the future development exceeds the sizes of the estimated buildings and structures on Lot 1 used to estimate the Prepaid Commercial SDF in Exhibit C. If the actual non-residential development is less than the aggregate of the sizes of the estimated buildings and structures used to estimate the Prepaid Commercial SDF in Exhibit C, Chandler will refund the excess upon the issuance of the final building permit for the final non-residential building or structure on Lot 1. The Prepaid Commercial SDF's shall not be refundable, however, until the issuance of the building permit for the final non-residential improvements to be constructed on Lot 1.

5.5 Additional Definition for Hotel on Lot 1. In spite of the notation of the conceptual nature of the hotel appearance as set forth in Exhibit B at page 12, the Parties agree that the hotel to be developed on Lot 1 will contain 85,000 to 90,000 square feet of space or greater, with approximately 150 standard hotel rooms or between 130 and 150 guest rooms if suites are included in the room types in order to provide for a mix of standard rooms and suites. Additionally the hotel shall consist of four stories, and be substantially in keeping with the architecture, massing, aesthetics and quality of those hotels shown in Exhibit E, attached hereto.

5.6 Vesting. As of the Effective Date, Chandler agrees that the Property may be developed in accordance with the PAD Zoning and PDP, subject to Developer’s compliance with the terms of this Agreement and all Applicable Laws. Chandler agrees that, for the term of this Agreement, the rights of the Developer and Owners of the Property to undertake and complete the development and use of the Property is vested subject to the terms and conditions of this Agreement and all Applicable Laws. Nothing herein affects the vesting of the PAD Zoning and the PDP for the Property as a matter of common law.

5.7 Phasing of Development. Developer reserves the right to develop the Property in phases as described and depicted in **Exhibit “D.”** Within the reasonable discretion of Developer, Developer will make commercially reasonable efforts to develop each phase of the Property in the order or concurrently with the prior or subsequent phase(s) as established in Exhibit D.

5.8 Public Infrastructure. The Parties agree that this Agreement does not change the requirements for public infrastructure improvements that will be required by the Applicable Laws (“**Public Infrastructure Improvements**”) for any land use approved in this Agreement or the PAD Zoning. The Developer agrees that it will be responsible to cause and pay for the construction and installation of all of the Public Infrastructure Improvements required by the

Applicable Laws and which are necessary to provide all public services to the Property. Developer is additionally responsible for any and all easements, rights-of-way, and/or other property rights located on or off the Property needed to enter and to properly construct Public Infrastructure Improvements.

ARTICLE 6. ASSIGNMENT.

6.1 Assignment by Developer. Developer may assign all or any portion of its rights hereunder to any one or more Persons as provided in this Article 6. The Developer may assign all or any portion of its rights hereunder in accordance with the following: (i) the assignee is an affiliate of the Developer or under common control with or is controlled by Developer, (ii) the corresponding obligations of the Developer with respect to the portion of the Property conveyed by Developer are completely assumed by the Developer's assignee, the assignee accepts such obligations and has the financial ability and experience, as reasonably determined by Chandler, to perform them, and the obligations are specifically included in the assignment signed by the assignee, or (iii) Chandler provides its prior written consent to the assignment, which consent shall not be unreasonably withheld, delayed or conditioned. Notice of any such assignment and assumption of Developer's obligations and Chandler's approval, if required, shall be reflected in a document executed by Chandler, Developer, and Developer's assignee and recorded by Developer in the land records of Maricopa County, Arizona. Upon the recordation of such document and Chandler's receipt of the assignee's written agreement to assume the obligations under this Agreement, Developer will be released from the obligations assumed by the assignee.

6.2 Binding on Property. The Owners have consented to the PAD Zoning, PDP, and this Agreement. All Owners have approved and signed this Agreement and thereby given consent to the binding nature of the PAD Zoning, PDP, this Agreement's terms and conditions on development of this Property. If the Developer or any of its affiliate does not become an owner of the Property, or a portion thereof, in accordance with the Elevation Chandler Purchase Agreement and/or PropCor Purchase Agreement by the planned close of escrow dates for the respective Purchase Agreements as set forth in the Recitals in Article 2, as may be extended by mutual agreement of Developer and such Owners, the Owners, by their signatures below, are agreeing that development of the Property is subject to the obligations and benefits of the PAD Zoning, PDP, and this Agreement. If the Developer or its affiliate does not become an owner before such deadline(s), all instances of the use of the term "Developer" in this Agreement shall include the Owners as Parties. In the event that the Developer does not become the owner of the Property, or a portion thereof, on or before the deadlines in the Purchase Agreements (as may be extended by mutual agreement) Chandler shall not, notwithstanding any other provision of this Agreement, enforce the obligations of this Agreement if the Owner(s) notify Chandler, within ten (10) days, that Developer did not close escrow in accordance with the deadlines of the relevant Purchase Agreements and give Chandler irrevocable consent for Chandler's termination of this Agreement and reversal of the PAD Zoning and PDP such that the former zoning which existed prior to adoption of Ordinance #4551 replaces the PAD Zoning and PDP on the portion of the Property requested by the relevant Owner. Within three (3) business days of any Owner's notification that Developer has not purchased the Property or any portion thereof pursuant to the applicable Purchase Agreement, Chandler will record a Termination of this Agreement in the land records of Maricopa County with respect to that portion of the Property which Developer did not purchase pursuant to the applicable Purchase Agreement. Within thirty (30) days of said

notification, Chandler will process the reversal of the PAD Zoning and PDP as to that portion of the Property not purchased by Developer pursuant to the applicable Purchase Agreement.

6.3 Binding on Successors. Subject to the provisions of this Article 6, the burdens of this Agreement bind and the benefits of this Agreement inure to the Parties and Owners hereto and their successors in interest and assigns as provided in A.R.S. § 9-500.05.D, except to the extent an assignment is not authorized in this Article 6.

ARTICLE 7. REPRESENTATIONS.

7.1 Chandler Representations.

Chandler represents and warrants to Developer 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 Developer Representations.

Developer represents and warrants to Chandler that:

7.2.1 All Owners of the Property on the date of consideration of this Agreement by Chandler have approved and signed this Agreement.

7.2.2 Developer is duly formed and validly existing under the laws of the state of its organization, is duly qualified to conduct business in the State of Arizona, and the individuals executing this Agreement on behalf of the Developer are authorized and empowered to bind Developer.

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

7.2.4 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.

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

ARTICLE 8. GENERAL PROVISIONS.

8.1 Statutory Authority.

This Agreement is intended to be a "Development Agreement" within the meaning of A.R.S. § 9-500.05 and to set forth certain obligations of the Parties with respect to the contemplated development of the Property, if Chandler approves the PAD Zoning and PDP, as permitted by Arizona law.

8.2 Consistent with Chandler General Plan.

By its approval of this Agreement, Chandler has determined that the Project (as hereinafter defined) proposed by this Agreement is consistent with Chandler's General Plan.

8.3 Delays or 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 other 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.

8.4 Force Majeure.

Neither Party shall be liable for delay or failure in performance resulting from acts beyond the control of such Party including, but not limited to, acts of God, acts of war or of the public enemy, riots, fire, flood, or other natural disaster, acts of government, strike, walkout, communication line or power failure. Any Party being affected by an event of force majeure shall send a written notice to the other Party as soon as possible after the commencement of the event of force majeure but in no case more than five (5) calendar days after the end of any event of force majeure. Any applicable time period or deadline shall be extended by a period of time equal to the time lost because of any event of force majeure as long as it is documented within ten (10) days after the end of the event of force majeure.

8.5 Notice of Default & Grace Periods.

8.5.1 After the occurrence of an event of Default for which the non-defaulting Party wants to avail itself of the remedies in Section 8.6, the non-defaulting Party shall not exercise any such remedies until and unless it has sent a written notice citing the Default and demanding that the Default be cured ("**Notice of Default**"), The non-defaulting Party shall not, thereafter, pursue any remedies outlined in Section 8.6 unless

and until the Grace Period described in this Section 8.5 has expired and the Default remains uncured at such time.

8.5.2 Upon the receipt of the Notice of Default, the defaulting Party shall diligently and expeditiously cure the Default within the relevant Grace Periods set forth below in Subsections 8.5.2.1 and 8.5.2.2.

8.5.2.1. The defaulting Party shall have a Grace Period of thirty (30) days after receipt of the Notice of Default to cure monetary Defaults.

8.5.2.2. The defaulting Party shall have a Grace Period of thirty (30) days after receipt of the Notice of Default to cure non-monetary Defaults. If, however, a non-monetary Default is of a nature that is not capable of being cured within the thirty (30) day Grace Period, the defaulting Party shall within ten (10) business days of its receipt of the Notice of Default, notify the non-defaulting Party of its specific plan to cure the Default with a schedule showing interim tasks and the timing for their completion as well as the full curing of the Default ("**Cure Plan**"). The non-defaulting Party shall, within ten (10) days of its receipt of the Cure Plan, determine, in its reasonable discretion, its acceptance or rejection of the Cure Plan as well as notify the defaulting Party of its decision to allow the non-monetary Grace Period to be extended beyond the 30 days in accordance with the Cure Plan. If the non-defaulting Party agrees to the Cure Plan and the defaulting Party fails or breaches any obligation or its timing for completing the interim tasks or completion of the Default within the Cure Plan, the non-defaulting Party may notify the defaulting Party of its breach and intent to exercise its remedies for such breach in accordance with Section 8.5 before the end of the extended Grace Period and without the delay of any additional Grace Period.

8.6 Remedies; Withholding of Building Permits. In the event of a Default hereunder and failure by the defaulting Party to timely cure the Default as provided in Section 8.5, the non-defaulting Party shall have all remedies available to it at law or in equity including Chandler's right to withhold issuance of future building permits after compliance with Section 8.5 and this Section 8.6. 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. In addition to its other remedies set forth in this Agreement or available under law or in equity, in the event the Developer or any successor to Developer as to any legally subdivided parcel within the Property (herein referred to as a "Development Parcel") defaults with respect to its obligations under this Agreement with respect to such Development Parcel, then Chandler shall have the right to withhold the issuance of future building permits with respect to such Development Parcel (but not any other portions of the Property with respect to which Developer or its successors are not in default) until such default is cured by the Developer or its successor, as applicable.

8.7 Time of the Essence.

Time shall be of the essence in and of this Agreement and every part hereof. Any extension, waiver or variation of any provision of this Agreement, shall not be deemed to affect this provision and there shall be no implied waiver of this provision.

8.8 Headings & Construction.

The descriptive headings preceding Articles and their subparts are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of the content of such subparts of this Agreement. The division of this Agreement into subparts shall not affect the interpretation of this Agreement. When used herein, the terms "include" or "including" shall mean without limitation by reason of the enumeration. If this Agreement uses the term "day," it shall mean calendar day unless otherwise specified or modified. The use of words in the singular or plural, or referring to a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to such persons or circumstances as the context otherwise permits. If the last day of any time period stated herein should fall on a Saturday, Sunday, or legal holiday as declared by the City of Chandler, 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 as declared by the City of Chandler. If a cross-reference within any Agreement provision cites a particular article, section or subsection number of this Agreement, it shall be a reference to the specifically referred article, section or subsection and its subparts only.

8.9 Interpretation among Parts of Agreement.

In the event of any conflict or inconsistency between the terms and conditions in the main body of this Agreement and the terms and conditions in any specifically incorporated materials, the main body of the Agreement will take precedence over the specifically incorporated materials. A conflict among other specifically incorporated materials shall be resolved by the more specific incorporated material on that particular subject over the more general incorporated material, which may mention the particular subject unless the context explicitly requires otherwise.

8.10 Cancellation for Conflict of Interest.

In accordance with A.R.S. § 38-511, Chandler may cancel any contract or agreement, without penalty or obligation, if any person on behalf of Chandler with a financial interest in Developer or Owners is significantly involved in initiating, negotiating, securing, drafting or creating this Agreement. The cancellation shall be effective in accordance with Section 8.14 unless the notice specifies a later time.

8.11 Entire Agreement.

This Agreement and all exhibits, or otherwise specifically incorporated materials, shall constitute the entire agreement between the Parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Parties by any of their employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the Parties hereto with respect to the subject matter hereof. Each Party acknowledges that it is entering into this Agreement solely based on the representations contained herein.

8.12 Governing Law.

This Agreement shall be governed by the laws of the State of Arizona and any disputes between the Parties as to enforcement or performance shall be adjudicated in the State of Arizona.

8.13 Limited Severability.

8.13.1 Chandler and Developer each believes that the execution, delivery, and performance of this Agreement comply with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring Chandler to do any act in violation of any Applicable Laws, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide 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.

8.13.2 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.

8.14 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:

To Developer: Chandler Unimproved Property Holdings, LLC
c/o Hines Investments Limited Partnership
Attn: Chris Anderson
2375 East Camelback Road, Suite 150
Phoenix, Arizona 85016
Phone: 602-385-4000
Facsimile: 602-385-4009
E-mail: chris.anderson@hines.com

With a copy to: Snell & Wilmer
400 East Van Buren Street
Phoenix, Arizona 85004
Attn: Nick Wood, Esq.
Phone: 602-382-6269
Facsimile: 602-382-6070
E-mail nwood@swlaw.com

To Owner: PRICE & FRYE INVESTMENTS LLC
c/o Point Center Financial, Inc.
Attn: Howard B. Grobstein, Chapter 7 Bankruptcy Trustee
6300 Canoga Avenue, Suite 1500 W
Woodland Hills, CA 91367

With a copy to: Landau Gottfried and Berger LLP
Attn: Roye Zur, Esq.
1801 Century Park East, Suite 700
Los Angeles, CA 90067
Phone: 310-691-7380
Facsimile: 310-557-0056
E-mail: rzur@lgbfirm.com

With a copy to: Gammage & Burnham, P.L.C.
Attn: Jeff Miller
Two North Central Avenue, 15th Floor
Phoenix, AZ 85004
Phone: 602-256-4493
Facsimile: 602-256-4475
E-mail: jmiller@gblaw.com

To Owner: Propcor Associates
Attn: John Propstra
5108 N. 40th Street, Suite 5
Phoenix, Arizona 85018
Phone: 602-955-5777
Facsimile: 602-955-8076
E-mail: johnpropstra@excite.com

With a copy to: Macerich Co.
401 Wilshire Boulevard, Suite 700
Santa Monica, California 90401
Attn: General Counsel
Phone: 310-899-6348
Facsimile: 310-393-0756
E-mail: steve.kraus@macerich.com

To Chandler: City of Chandler
City Manager Office (MS 605)
P. O. Box 4008
Chandler, AZ 85244-4008
Attn: Chandler City Manager
Phone: 480-782-2210
Facsimile: 480-782-2209
E-mail: Rich.Dlugas@chandleraz.gov

With a copy to: Chandler City Attorney's Office
P. O. Box 4008, Mailstop 602
Chandler, AZ 84244-4008
Attn: Kay Bigelow
Phone: 480-782-4642
Facsimile: 480-782-4652
E-mail: Kay.Bigelow@chandleraz.gov

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.

8.15 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.

8.16 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.

8.17 Recordation.

This Agreement shall be recorded in its entirety in the Official Records of Maricopa County, Arizona within ten (10) days after its execution by all Parties and the Owners.

8.18 Amendment.

8.18.1 No change or addition is to be made to this Agreement except by written amendment executed by Chandler and Developer and each Owner. Within ten (10) days

after any amendment to this Agreement, such amendment shall be recorded in the Official Records of Maricopa County, Arizona.

8.18.2 If there ever is an amendment to this Agreement, references to “Agreement” or “Development Agreement” shall mean this Agreement as amended by any subsequent, duly processed amendment.

8.18.3 The effective date of any duly processed amendment shall be the date on which the last representative for the Parties and the Owners execute the Agreement.

8.18.4 If, after the effective date of any amendment(s), the Parties find it necessary to refer to this Agreement in its original, unamended form, they shall refer to it as the “Original Development Agreement.” When the Parties mean to refer to any specific amendment to this Agreement which amendment is unmodified by any subsequent amendments, the Parties shall refer to it by the number of the amendment as well as its effective date.

8.19 Further Assurances.

Each Party agrees to perform such other and further acts and to execute and deliver such additional agreements, documents, affidavits, certifications, acknowledgments and instruments as any other Party may reasonably require to consummate, evidence, confirm or carry out the matters contemplated by this Agreement or confirm the status of (i) this Agreement as in full force and effect, and (ii) the performance of the obligations hereunder at any time.

8.20 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 between Developer and Chandler. 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 Developer under this Agreement.

8.21 Indemnifications, Representations and Warranties 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 the other Party shall survive the expiration or earlier termination of this Agreement.

8.22 Unless specifically stated herein, this Agreement does not change Chandler's laws and regulations adopted pursuant to Chandler's power to protect public health, welfare and safety.

8.23 Proposition 207 Waivers. The undersigned are the Owner(s) and/or Developer of the Property. As an inducement for the granting of this Agreement, the PAD and PDP, and in consideration thereof, the undersigned, by signing this Agreement, agree and consent to all of the conditions that may be imposed by the Chandler City Council in conjunction with the approval of this Agreement, the PAD and PDP and waive any right to compensation for diminution in value pursuant to A.R.S. §12-1134 that may now or in the future exist as a result of said approvals.

8.24 Estoppels. Each of the Parties hereto agrees, on its own behalf, that it will at any time and from time to time, within thirty (30) days following receipt of written request therefor from the other Party, execute, acknowledge and deliver to the Party requesting the same (the "Requesting Party") a written statement certifying (a) that this Agreement has not been modified, supplemented or amended and is in full force and effect (or if there has been any such modification, supplement or amendment, a reference thereto), and (b) that, to the best of such Party's knowledge and belief, there are no defaults in the performance of this Agreement by the Requesting Party (or if there are any such defaults of which such party may have knowledge, a reference thereto).

IN WITNESS WHEREOF, the Parties have executed this Agreement and the Owners have executed showing their consent to the binding nature of the Agreement on development of the Property, and consenting to the demolition of the existing structure on Lot 1 and granting a temporary demolition easement in accordance therewith as contemplated in Section 5.3.1 of the Agreement, on or as of the Effective Date.

CHANDLER:

CITY OF CHANDLER, ARIZONA
an Arizona municipal corporation

By: _____
Jay Tibshraeny, Mayor

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

STATE OF ARIZONA)

)ss.

County of Maricopa)

The foregoing Agreement was acknowledged before me this ____ day of _____,
2014, by _____, Mayor of City of Chandler, Arizona, an Arizona
municipal corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

OWNER:

PROPCOR ASSOCIATES, an Arizona general partnership

By: WESTCOR TRS, LLC, a Delaware limited liability company, its Managing Partner

By: _____

Name: _____

Its: _____

By: FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, successor by merger to First American Title Insurance Company of Arizona, an Arizona corporation, as Trustee under the Propstra/Chandler Trust Agreement dated November 17, 1986, under Trust No. 7573, and not personally, a general partner

By: _____

Name: _____

Its: _____

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2014, by _____, the _____, on behalf of WESTCOR TRS, LLC, a Delaware limited liability company, the Managing Partner of PROPCOR ASSOCIATES, an Arizona general partnership.

Notary Public

My Commission Expires:

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2014, by _____, the _____, on behalf of FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, successor by merger to First American Title Insurance Company of Arizona, an Arizona corporation, as Trustee under the Propstra/Chandler Trust Agreement dated November 17, 1986, under Trust No. 7573, and not personally, a general partner of PROPCOR ASSOCIATES, an Arizona general partnership.

Notary Public

My Commission Expires:

Description of document this notarial certificate is being attached to:	
Type/Title	Development Agreement
Date of Document	
Number of Pages	30
Add'l Signers <i>(other than those named in this notarial certificate)</i>	

EXHIBITS

- Exhibit A Legal Description of the Property
- Exhibit B Development Booklet for Chandler Viridian, dated _____, 2014
- Exhibit C Table of Proposed System Development Fees
- Exhibit D Phasing Plan
- Exhibit E Hotel Details
- Exhibit F Form of Escrow Agent
- Exhibit G Demolition Schedule

EXHIBIT "A-1"
LEGAL DESCRIPTION OF LOT 1

EXHIBIT "A-2"
LEGAL DESCRIPTION OF LOT 2

EXHIBIT "B"

Chandler Viridian Development Booklet, dated _____, 2014

On file with recorded copy of Development Agreement in the office of the
Chandler City Clerk

EXHIBIT "C"

Land Use	Sq Ft	EDU	Total SDF's
Office 1	133,000.00		\$661,010.00
Office 2	107,000.00		\$531,790.00
Retail	15,000.00		\$75,750.00
Hotel	90,000.00		\$224,820.00
			\$1,493,370.00

EXHIBIT "D"
PHASING PLAN

EXHIBIT "E"
HOTEL DETAILS

EXHIBIT "F"
FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Escrow Agreement") is made and entered into as of the 11th day of September, 2014 by and between THE CITY OF CHANDLER, ARIZONA, an Arizona municipal corporation ("City"), CHANDLER UNIMPROVED PROPERTY HOLDINGS, LLC, a Delaware limited liability company ("Developer"), and FIDELITY NATIONAL TITLE AGENCY ("Escrow Agent").

RECITALS

A. The City and Developer entered into that certain Development Agreement dated as of September 8, 2014 (the "Development Agreement"), pursuant to which, among other things, the Developer agreed to demolish an existing partially-completed building structure located on Lot 1 as more particularly described in the Development Agreement (the "Property").

B. In order to provide assurance to the City that Developer will demolish the existing structure as and when required pursuant to the terms and conditions of the Development Agreement, the City and Developer agree that a sum in an amount equal to \$300,000.00 will be deposited by Developer in an escrow account established with Escrow Agent to be used in connection with such demolition.

C. For the purposes of carrying out the provisions of the Development Agreement, the parties are entering into this Escrow Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state, confirm and agree as follows:

AGREEMENT

1. Definitions. All initial capitalized terms used herein shall have the meanings ascribed thereto in the Development Agreement, unless specifically defined herein.

2. Deposit of Funds with Escrow Agent. Within three (3) days following the date of this Escrow Agreement, Developer shall deposit with Escrow Agent the sum of \$300,000.00 (the "Escrow Funds"), which Escrow Funds the City and Developer acknowledge are available to be used by Developer to pay the costs and expenses incurred by Developer in connection with the demolition of the existing structure on the Property (the "Demolition Work"). The Escrow Funds shall be deposited by Escrow Agent in a separate escrow account (the "Escrow") and released to Developer and/or the City in accordance with the terms and conditions of this Escrow Agreement.

3. Establishment of Escrow Account. The Developer and City agree, and hereby instruct Escrow Agent, as follows:

(a) Escrow Agent shall establish the Escrow for the Escrow Funds which shall be separate and segregated from all other escrows; and

(b) If requested by Developer, the Escrow Funds shall be deposited into an interest-bearing account in a federally-insured bank customarily used by Escrow Agent. The interest on the Escrow Funds shall accrue to the benefit of the Developer.

4. Release of Escrow Funds. Escrow Agent is hereby instructed to release the Escrow Funds, as follows:

4.1 The Escrow Funds may be withdrawn by Developer from time to time upon delivery to Escrow Agent of a draw request (a "Draw Request") which is accompanied by invoices, billing statements or such other documentation supporting Developer's request of the amount for withdrawal relating to the Demolition Work described herein, which invoices, billing statements or other documentation have been executed by Developer and by Developer's contractor performing the Demolition Work. A copy of each such Draw Request shall be submitted to the City's designated representative, the City Engineer (the "City's Representative") by Escrow Agent for the purpose of permitting the City to inspect the work described in the Draw Request to confirm that such work has been completed and performed. Unless the City's Representative makes a written objection to the disbursement of the funds requested in the Draw Request within five (5) business days after receipt of a copy thereof, which objection specifically sets forth the reasons for such objection, the Escrow Agent shall disburse the funds to Developer in accordance with the Draw Request. The City acknowledges that it shall only have the right to object to any such Draw Request if and to the extent the work for which payment is being requested pursuant to the Draw Request has not been performed. If the City's Representative makes a permitted objection to the disbursement of any portion of the Escrow Funds within said 5-business day period, then Escrow Agent shall withhold the amount not approved, disburse the remainder to Developer, and Developer and the City shall attempt in good faith to resolve to their mutual satisfaction all items which were objected to within five (5) days after Developer's receipt of the City's objection. If such objectionable item(s) cannot be resolved as provided in the preceding sentence, then the issue shall be resolved by mandatory arbitration as provided in *Section 7* below.

4.2 Upon substantial completion of the Demolition Work, Developer shall submit to Escrow Agent a final Draw Request which shall be processed in accordance with the procedures set forth in *Paragraph 4.1* above, whereupon, after disbursement of the amounts requested in the Draw Request, all remaining funds in the Escrow shall be disbursed by Escrow Agent to (a) the City and applied by the City toward the Developer's obligation for payment of the Prepaid Commercial SDF with respect to the Property pursuant to the provisions of *Section 5.4* of the Development Agreement if the Developer is the then Owner of the entirety of Lot 1 (as defined in the Development Agreement), or (b) if the Developer is not then the Owner of the entirety of Lot 1, to the Developer.

4.3 Notwithstanding anything contained in this *Section 4* or elsewhere in this Escrow Agreement to the contrary, in the event that Developer fails to complete the Demolition Work by the outside date set forth therefor in the Development Agreement for reasons other than *Force Majeure* delays, then the City shall have the right, but not the obligation, to complete the Demolition Work and to be reimbursed from the Escrow Funds for all costs incurred in connection therewith in accordance with the Draw Request procedures set forth above. By requesting and receiving Escrow Funds, the City does not waive any rights it might have against Developer under the Development Agreement due to the Developer's failure to complete the Demolition Work within the required time set forth in the Development Agreement. If the Escrow Funds are not sufficient to pay all costs of the Demolition Work incurred by the City, then Developer shall reimburse the City for all such additional costs incurred in connection therewith pursuant to the terms and conditions of the Development Agreement.

5. Agreement for Sole Benefit of Parties. This Escrow Agreement is made solely for the benefit of the City and Developer and their respective successors and assigns.

6. Liability, Duties and Obligations of Escrow Agent. The parties hereby agree as follows:

6.1 Escrow Agent undertakes to perform only such obligations as are expressly set forth herein.

6.2 Except for Escrow Agent's negligence or willful misconduct, Escrow Agent shall not be liable for any action taken by it in good faith and authorized by or within the rights and powers conferred upon it under this Escrow Agreement.

7. Arbitration. Any objection to a Draw Request or other dispute related to this Escrow Agreement shall be resolved pursuant to binding arbitration which shall be processed in accordance with the applicable rules of the American Arbitration Association. The decision of the arbitrator with respect to any such dispute shall be final and binding on all parties and not subject to appeal, in the absence of fraud, and the prevailing party may enforce the same by application for entry of judgment in any court of competent jurisdiction or by other procedures established by law. The unsuccessful party in any such arbitration proceeding shall pay all reasonable costs and fees, including attorneys' fees, of the prevailing party and the costs and fees of the arbitrator.

8. Expenses. Developer shall pay the reasonable costs and expenses incurred by Escrow Agent pertaining to this Escrow Agreement and any other customary charges of Escrow Agent for performing its duties hereunder.

9. Notices. All notices given hereunder or in connection herewith shall be given in the manner and to the addresses of the parties as set forth in the Development Agreement.

10. Termination. This Escrow Agreement shall terminate upon full disbursement of the Escrow Funds as provided for herein, or such earlier date upon which the City and Developer mutually agree in writing.

11. Acknowledgment of Escrow Agent; Interpleader. By its execution hereof, Escrow Agent hereby acknowledges and agrees to hold and disburse the Escrow Funds pursuant to and in strict compliance with the terms of this Escrow Agreement. In the event of any conflicting demands made upon Escrow Agent concerning this Escrow Agreement or the Escrow, Escrow Agent shall, at its election, have the right to hold any money and any documents deposited pursuant to this Escrow Agreement until it receives mutual instructions by the parties hereto or until a final determination is entered by the Arbitrator pursuant to the provisions of **Section 7** above which determines the rights of all parties. In the alternative, Escrow Agent may, at its discretion, at any time, commence a civil action to interplead any conflicting demands in a court of competent jurisdiction. Deposit with the court by the Escrow Agent of all documents and funds (after deducting therefrom its charge and its expenses and attorneys' fees incurred in connection with any such court action concerning this Escrow Agreement) shall relieve Escrow Agent of all further liability and responsibility.

12. Arizona Law. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, and is subject to the conflict of interest provisions of A.R.S. § 38-511.

13. Counterparts. This Escrow Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereby have executed this Holdback Agreement as of the day and year first above written.

CITY OF CHANDLER, ARIZONA,
an Arizona municipal corporation

City Manager

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By _____
City Attorney

CHANDLER UNIMPROVED PROPERTY HOLDINGS LLC, a Delaware
limited liability company

By: Chandler Viridian Partners LP,
its sole member

By: Hines Chandler Associates Limited Partnership,
its general partner

By: Hines Chandler GP, LLC,
its general partner

By: Hines Investment Management Holdings Limited Partnership,
its sole member

By: HIMH GP LLC,
its general partner

By: Hines Real Estate Holdings Limited Partnership,
its sole member

By: JCH Investments, Inc.,
its general partner

By: _____
Name: _____
Title: _____

FIDELITY NATIONAL TITLE AGENCY

By: _____
Name: _____
Title: _____

EXHIBIT "G"
DEMOLITION SCHEDULE



**LEGAL DESCRIPTION
COMMERCIAL PROPERTY
CHANDLER, ARIZONA**

June 30, 2014
Job No. 2013-153
Page 1 of 2

LOT 15 OF THE FINAL PLAT FOR "CHANDLER FASHION CENTER" ACCORDING TO BOOK 586, PAGE 10 TOGETHER WITH LOT 1, TRACT 'C' AND A PORTION OF LOT 2 OF THE MINOR LAND DIVISION FOR "CHANDLER FASHION CENTER HOTEL" AS RECORDED IN BOOK 837, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 4 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 15 OF "CHANDLER FASHION CENTER", COMMON WITH THE NORTHWEST CORNER OF SAID LOT 1 OF "CHANDLER FASHION CENTER HOTEL";

THENCE NORTH 02 DEGREES 12 MINUTES 48 SECONDS EAST, ALONG THE BOUNDARY LINE OF SAID LOT 15, A DISTANCE OF 168.37 FEET;

THENCE NORTH 01 DEGREE 38 MINUTES 32 SECONDS WEST, A DISTANCE OF 96.30 FEET;

THENCE NORTH 41 DEGREES 23 MINUTES 46 SECONDS EAST, A DISTANCE OF 29.24 FEET TO THE POINT OF A NON TANGENT CURVE CONCAVE NORTHWESTERLY, OF WHICH THE RADIUS POINT LIES NORTH 06 DEGREES 18 MINUTES 10 SECONDS WEST, A RADIAL DISTANCE OF 775.00 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 18 DEGREES 18 MINUTES 39 SECONDS, A DISTANCE OF 247.68 FEET TO THE POINT OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES NORTH 24 DEGREES 37 MINUTES 26 SECONDS WEST, A RADIAL DISTANCE OF 517.14 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05 DEGREES 39 MINUTES 20 SECONDS, A DISTANCE OF 51.05 FEET;

THENCE NORTH 59 DEGREES 43 MINUTES 50 SECONDS EAST, A DISTANCE OF 197.35 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 577.27 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 25 DEGREES 15 MINUTES 24 SECONDS, A DISTANCE OF 254.47 FEET TO A POINT OF COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 635.00 FEET;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02 DEGREES 22 MINUTES 56 SECONDS, A DISTANCE OF 26.40 FEET;

THENCE NORTH 87 DEGREES 22 MINUTES 10 SECONDS EAST, A DISTANCE OF 12.24 FEET;

THENCE SOUTH 46 DEGREES 30 MINUTES 09 SECONDS EAST, A DISTANCE OF 27.72 FEET;

THENCE SOUTH 00 DEGREES 22 MINUTES 27 SECONDS EAST, A DISTANCE OF 397.64 FEET;

THENCE SOUTH 01 DEGREE 36 MINUTES 37 SECONDS EAST, A DISTANCE OF 504.04 FEET;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 790.91 FEET TO THE WESTERLY BOUNDARY LINE OF SAID LOT 2, BEING THE POINT OF A NON TANGENT CURVE CONCAVE WESTERLY, OF WHICH THE RADIUS POINT LIES NORTH 89 DEGREES 37 MINUTES 31 SECONDS WEST, A RADIAL DISTANCE OF 440.00 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 2 DEGREES 01 MINUTES 08 SECONDS, A DISTANCE OF 15.50 FEET TO A POINT OF TANGENCY;

THENCE NORTH 01 DEGREE 38 MINUTES 38 SECONDS WEST, A DISTANCE OF 91.96 FEET;

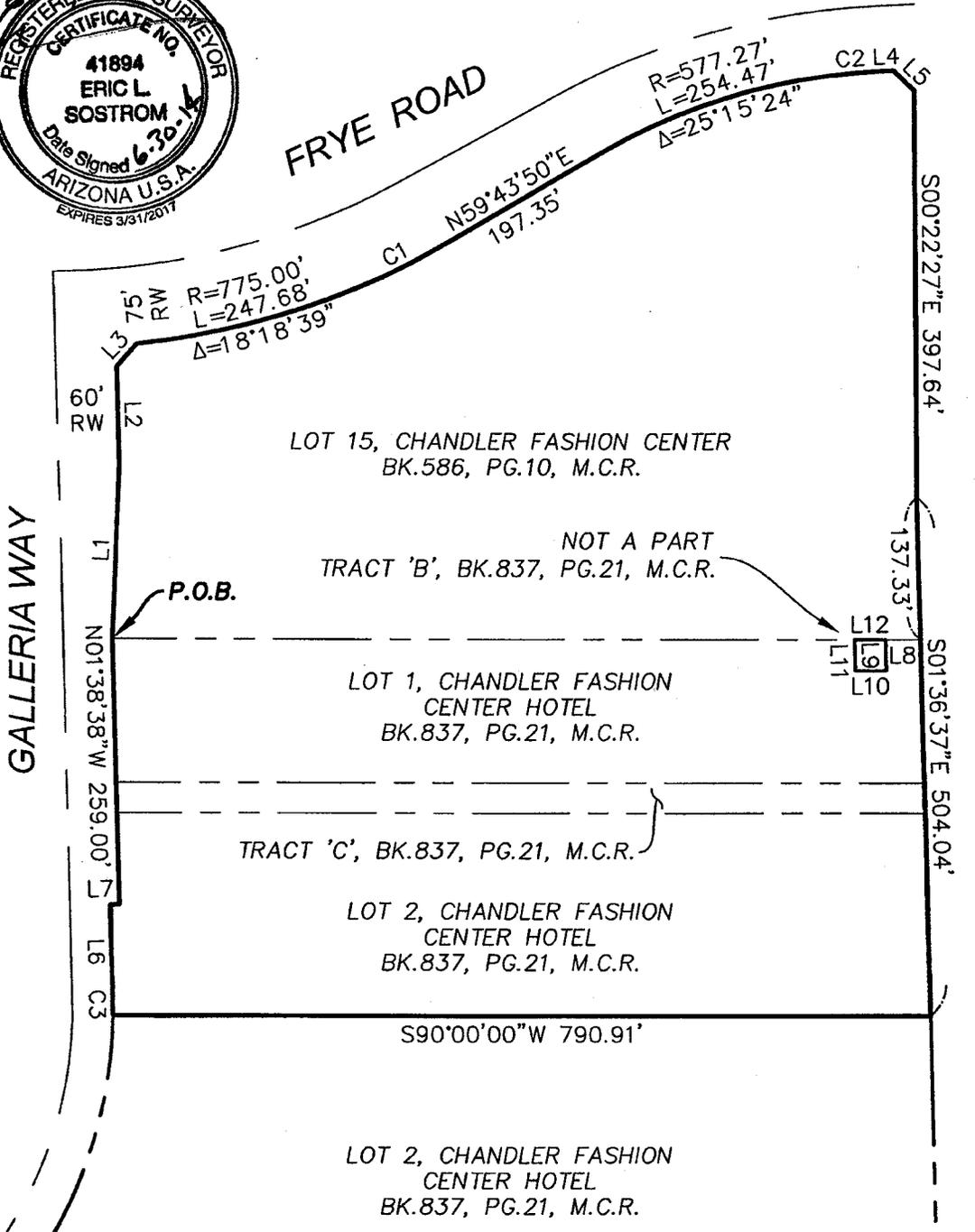
THENCE NORTH 88 DEGREES 21 MINUTES 22 SECONDS EAST, A DISTANCE OF 8.67 FEET;

NORTH 01 DEGREE 38 MINUTES 38 SECONDS WEST ALONG SAID LINE, A DISTANCE OF 259.00 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED.

EXCEPT ANY PORTION CONTAINED WITHIN TRACT 'B' OF 'CHANDLER FASHION CENTER HOTEL' AS RECORDED IN BOOK 837, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA.

SAID PARCEL CONTAINS 614,506 SQUARE FEET OR 14.107 ACRES, MORE OR LESS.





SIG

SURVEY INNOVATION GROUP, INC

EXHIBIT COMMERCIAL PARCEL CHANDLER, ARIZONA

Ph (480) 922 0780 **Land Surveying Services** Fx (480) 922 0781
 7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB #13-153	DWG: 13-153 Commercial	DATE 6/30/14
SCALE: N.T.S.	DRAWN: ELS	CHK: RMH
		SHEET 1 OF 2

LINE TABLE		
LINE	BEARING	LENGTH
L1	N02°12'48"E	168.37
L2	N01°38'38"W	96.30
L3	N41°23'46"E	29.24
L4	N87°22'10"E	12.24
L5	S46°30'09"E	27.72
L6	N01°38'38"W	91.96
L7	N88°21'22"E	8.67
L8	N90°00'00"W	34.06
L9	S01°36'37"E	30.01
L10	N90°00'00"W	30.01
L11	N01°36'37"W	30.01
L12	N90°00'00"E	30.01

CURVE TABLE				
CURVE	DELTA	RADIUS	ARC	CHORD
C1	5°39'20"	517.14	51.05	N62°32'54"E 51.03
C2	2°22'56"	635.00	26.40	S86°10'42"W 26.40
C3	2°01'08"	440.00	15.50	N00°38'04"W 15.50



SIG
SURVEY INNOVATION
GROUP, INC

EXHIBIT
COMMERCIAL PARCEL
CHANDLER, ARIZONA

Ph (480) 922 0780 *Land Surveying Services* Fx (480) 922 0781
 7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB #13-153	DWG: 13-153 Commercial	DATE 6/30/14
SCALE: N.T.S.	DRAWN: ELS	CHK: RMH
		SHEET 2 OF 2



**LEGAL DESCRIPTION
HINES CHANDLER
LOT 2**

November 20, 2013
Job No. 2013-153
Page 1 of 1

A PORTION OF LOT 2 OF THE MINOR LAND DIVISION "CHANDLER FASHION CENTER HOTEL" AS RECORDED IN BOOK 837, PAGE 21, RECORDS OF MARICOPA COUNTY, ARIZONA, SAID PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 4 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2 OF SAID MINOR LAND DIVISION;

THENCE SOUTH 01 DEGREES 36 MINUTES 37 SECONDS EAST, ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 2, A DISTANCE OF 196.66 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED;

THENCE CONTINUING SOUTH 01 DEGREES 36 MINUTES 37 SECONDS EAST ALONG SAID LINE, A DISTANCE OF 536.81 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE SOUTH 47 DEGREES 06 MINUTES 31 SECONDS WEST, A DISTANCE OF 51.05 FEET;

THENCE NORTH 45 DEGREES 09 MINUTES 15 SECONDS WEST, DEPARTING SAID PROPERTY LINE, A DISTANCE OF 116.99 FEET;

THENCE SOUTH 85 DEGREES 56 MINUTES 08 SECONDS WEST, A DISTANCE OF 91.06 FEET;

THENCE SOUTH 59 DEGREES 21 MINUTES 41 SECONDS WEST, A DISTANCE OF 511.67 FEET;

THENCE NORTH 16 DEGREES 55 MINUTES 20 SECONDS WEST, A DISTANCE OF 56.63 FEET;

THENCE NORTH 01 DEGREES 45 MINUTES 01 SECONDS WEST, A DISTANCE OF 189.29 FEET;

THENCE NORTH 48 DEGREES 05 MINUTES 07 SECONDS WEST, A DISTANCE OF 70.92 FEET;

THENCE SOUTH 85 DEGREES 26 MINUTES 27 SECONDS WEST, A DISTANCE OF 77.65 FEET;

THENCE SOUTH 45 DEGREES 51 MINUTES 10 SECONDS WEST, A DISTANCE OF 72.98 FEET TO THE WESTERLY LINE OF SAID LOT 2;

THENCE NORTH 36 DEGREES 34 MINUTES 52 SECONDS WEST, A DISTANCE OF 214.00 FEET TO THE POINT OF CURVE OF A NON-TANGENT CURVE CONCAVE WESTERLY, OF WHICH THE RADIUS POINT LIES NORTH 36 DEGREES 34 MINUTES 52 SECONDS WEST, A RADIAL DISTANCE OF 440.00 FEET;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53 DEGREES 02 MINUTES 39 SECONDS, A DISTANCE OF 407.35 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, DEPARTING SAID WESTERLY LINE, A DISTANCE OF 790.91 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED.

SAID PARCEL CONTAINS 496,622 SQUARE FEET OR 11.401 ACRES, MORE OR LESS.

S01°36'37"E
196.66'

S01°36'37"E 536.81'

POINT OF COMMENCEMENT,
N.E.C. LOT 2 of MLD for
"CHANDLER FASHION CENTER HOTEL"
BK. 837, PG. 21, M.C.R.

N90°00'00"E 790.91'

POINT OF
BEGINNING

LOT 2

±496,622 SQ.FT.
11.401 AC.

40' R/W
BK. 620,
PG. 33

S59°21'41"W
511.67'

N01°45'01"W
189.29'

GALLERIA WAY
R=440.00' L=407.35'
Δ=53°02'39"
M=55°42'92"N
214.00'

LINE TABLE

LINE	BEARING	LENGTH
L1	S47°06'31"W	51.05
L2	N45°09'15"W	116.99
L3	S85°56'08"W	91.06
L4	N16°55'20"W	56.63
L5	N48°05'07"W	70.92
L6	S85°26'27"W	77.65
L7	S45°51'10"W	72.98

A.D.O.T.
LOOP 101 / 202 FREEWAY



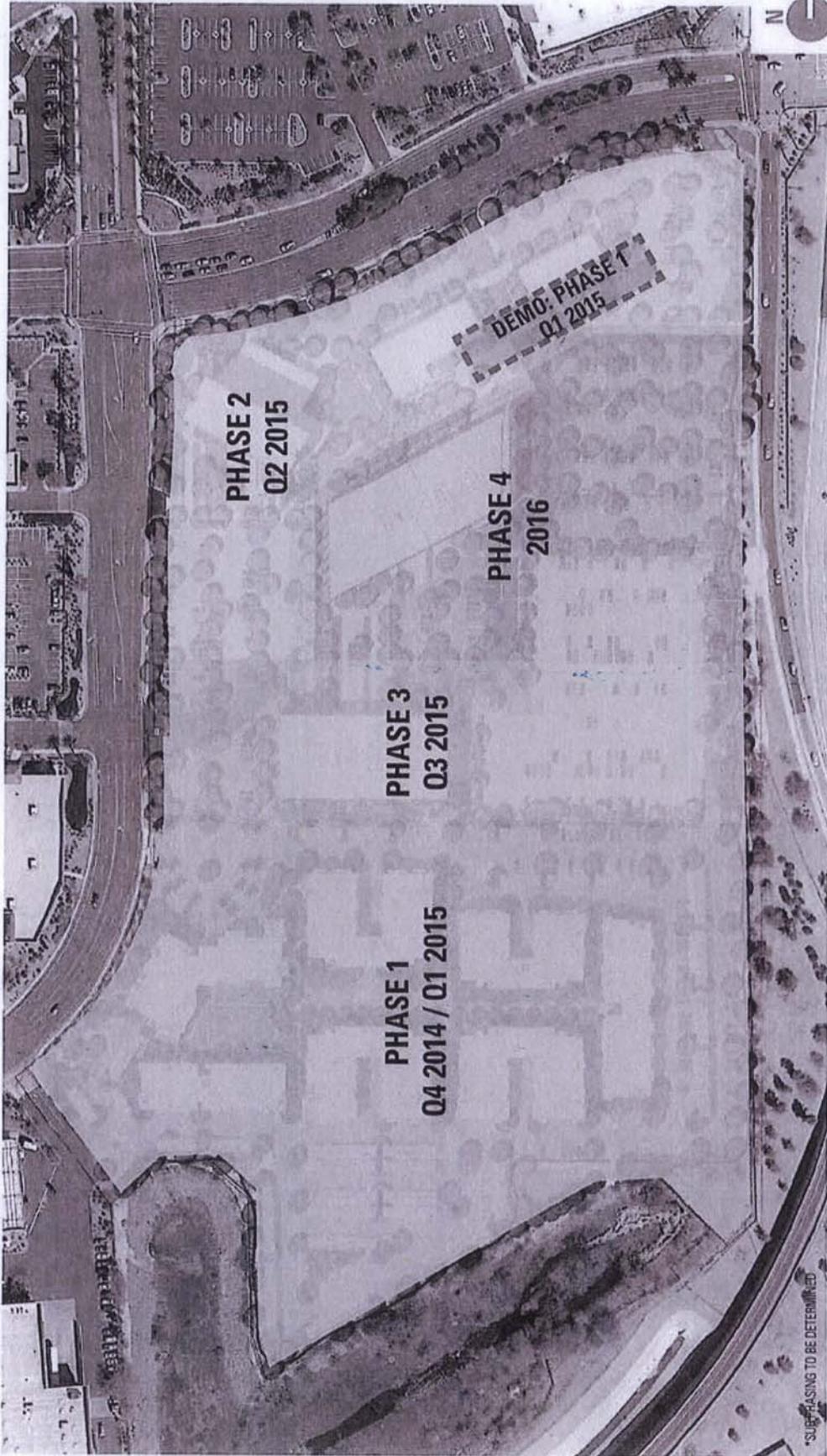
LOT 2
RESIDENCES AT CHANDLER COMMONS
CHANDLER, ARIZONA

SIG
SURVEY INNOVATION
GROUP, INC

Ph (480) 922 0780 Land Surveying Services Fx (480) 922 0781
7301 EAST EVANS ROAD, SCOTTSDALE, AZ 85260

JOB# 13-153	DWG: 13153PLAT.dwg	DATE: 11/20/13
SCALE: N.T.S.	DRAWN: ELS	CHECK: RMH
		SHEET: 1 OF 1

PHASING DIAGRAM



CHANDLER VIRIDIAN



Hyatt House



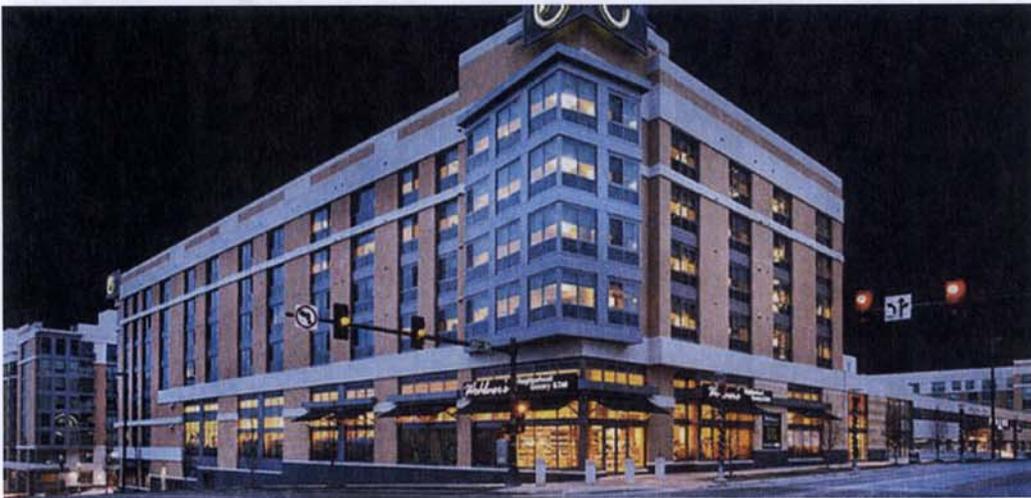
Hotel Indigo



ALOFT Hotel



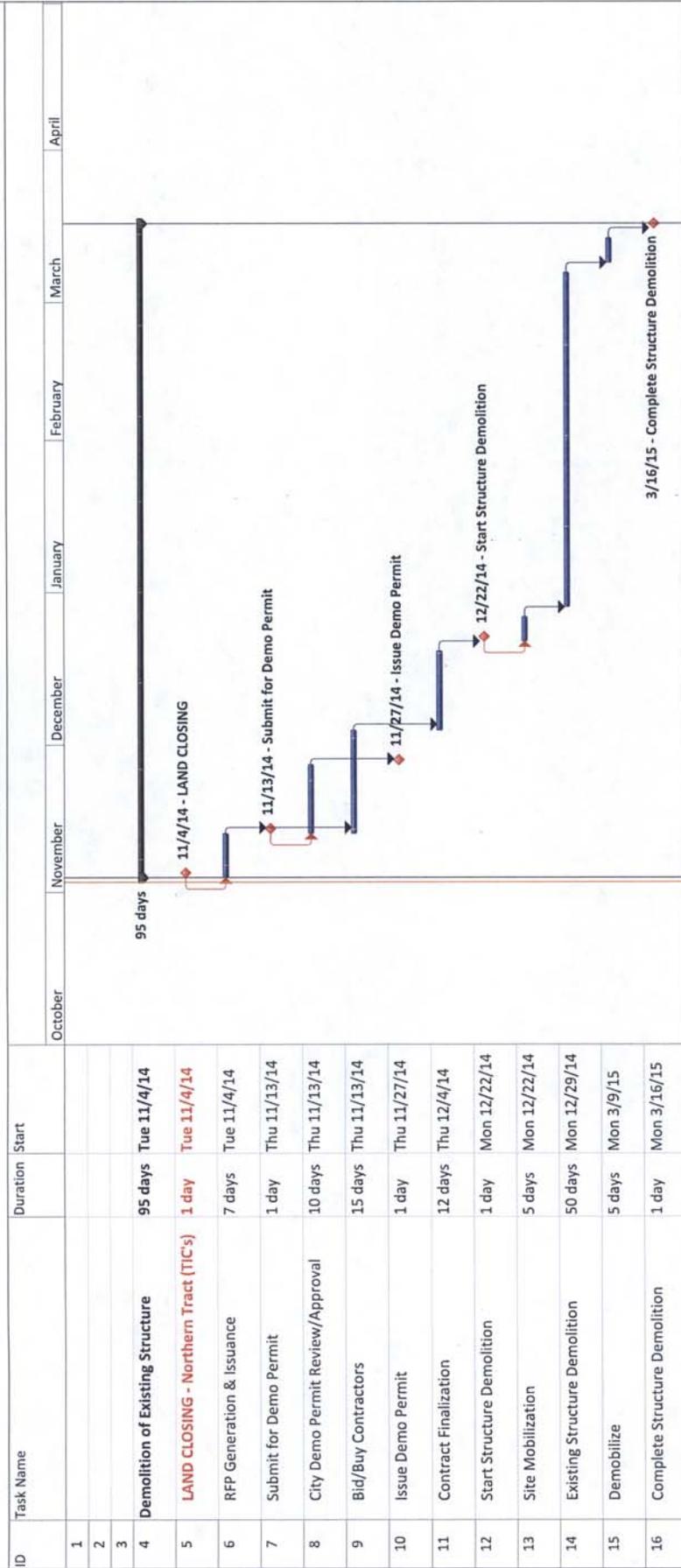
Element by Westin



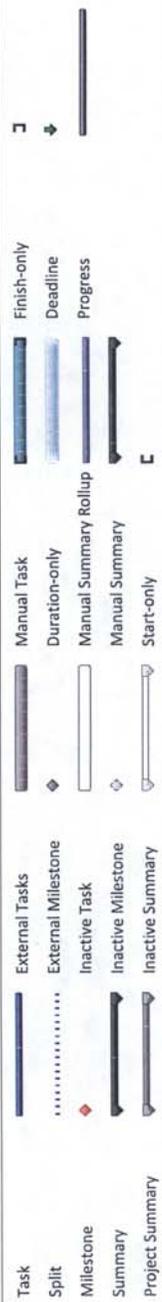
Chandler Viridian

Outline Schedule

Demolition of Existing Concrete Hotel Structure



Hines



Project: Chandler Viridian
 Demo of Existing Structure
 Date: Tue 8/19/14