#1
JUL 09 2015

**ORDINANCE NO. 4649**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, DECLARING CERTAIN REAL PROPERTY AS NO LONGER NECESSARY FOR USE AS PUBLIC ROADWAY; AUTHORIZING AND APPROVING THE EXCHANGE OF SAID REAL PROPERTY TO AN ABUTTING PROPERTY OWNER FOR NEW PUBLIC ROADWAY; AND AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO COMPLETE THE ROADWAY EXCHANGE.

WHEREAS, A.R.S. §28-7201 *et seq.* provides for the disposition of unnecessary public roadway, and A.R.S. §28-7203 specifically provides for the exchange of unnecessary public roadway with an abutting property owner for new public roadway; and

WHEREAS, in March 2015, the Chandler City Council approved the use permit application for a restaurant known as Crust Simply Italian ("Restaurant"), to be operated by a tenant of the San Marcos Hotel located in downtown Chandler at 10 N. San Marcos Place, west of Arizona Avenue and south of Buffalo Street. As part of the Restaurant operation, certain portions of public roadway are needed for stairway access to the downstairs portion of the San Marcos Hotel building, where the public roadway abuts the south side of the San Marcos Building; and

WHEREAS, the construction of the stairway will result in that certain portion of public roadway, described in Exhibit "A", attached hereto and made a part hereof (the "Excess Commonwealth Roadway"), no longer being necessary for public use as a roadway; and

WHEREAS, San Marcos Hotel LLC, a Delaware limited liability company (the "Developer") is the owner of that certain real property that the City desires to acquire for use by the public as a public roadway as shown in Exhibit "B", attached hereto and made a part hereof (the "Chandler Boulevard Roadway"); and

WHEREAS, Developer is the owner of all of the private property that abuts the Excess Commonwealth Roadway and the Chandler Boulevard Roadway;

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

**Section 1.** The Excess Commonwealth Roadway, as described in attached Exhibit "A", is determined and declared to be no longer necessary for public use as a roadway and the Chandler Boulevard Roadway, as described in attached Exhibit "B" is hereby accepted by the City for use by the public as a roadway.

**Section 2.** The City is authorized to convey the City's interest in and to the Excess Commonwealth Roadway to the Developer, as the abutting property owner, in exchange for title to the Chandler Boulevard Roadway, such roadway exchange being approved subject to the requirements of this Ordinance.

ATTEST:

_____ _____

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. _____ was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on _____ day of _____, 2015, and that a quorum was present thereat.

_____

CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

_____

CITY ATTORNEY

**EXHIBIT A**
**DESCRIPTION OF RELEASE**

*ALL THAT PORTION OF COMMON WEALTH AVENUE AS SHOWN ON THE OFFICIAL PLAT OF CHANDLER, FILED IN BOOK BOOK 5 OF MAPS, PAGE 34 IN THE OFFICE OF THE COUNTY RECORDER, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:*

*COMMENCING AT THE SOUTHEAST CORNER OF LOT 13 OF SAID CHANDLER; THENCE ALONG THE SOUTH LINE OF SAID LOT 13 NORTH 89° 48' 16" WEST 53.32 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING SOUTH 00° 11' 44" WEST 5.33 FEET; THENCE NORTH 89° 48' 16" WEST 23 FEET PARALLEL AND DISTANT 5 FEET MEASURED AT RIGHT ANGLES TO SAID SOUTH LINE; THENCE NORTH 00° 11' 44" EAST 5.33 FEET TO SAID SOUTH LINE; THENCE ALONG SAID SOUTH LINE SOUTH 89° 48' 16" EAST 23 FEET TO THE POINT OF BEGINNING, CONTAINING 122.6 SQAURE FEET MORE OR LESS.*

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37937
JOHN M.
WARE
Date Signed 02/16/15
ARIZONA, U.S.A.

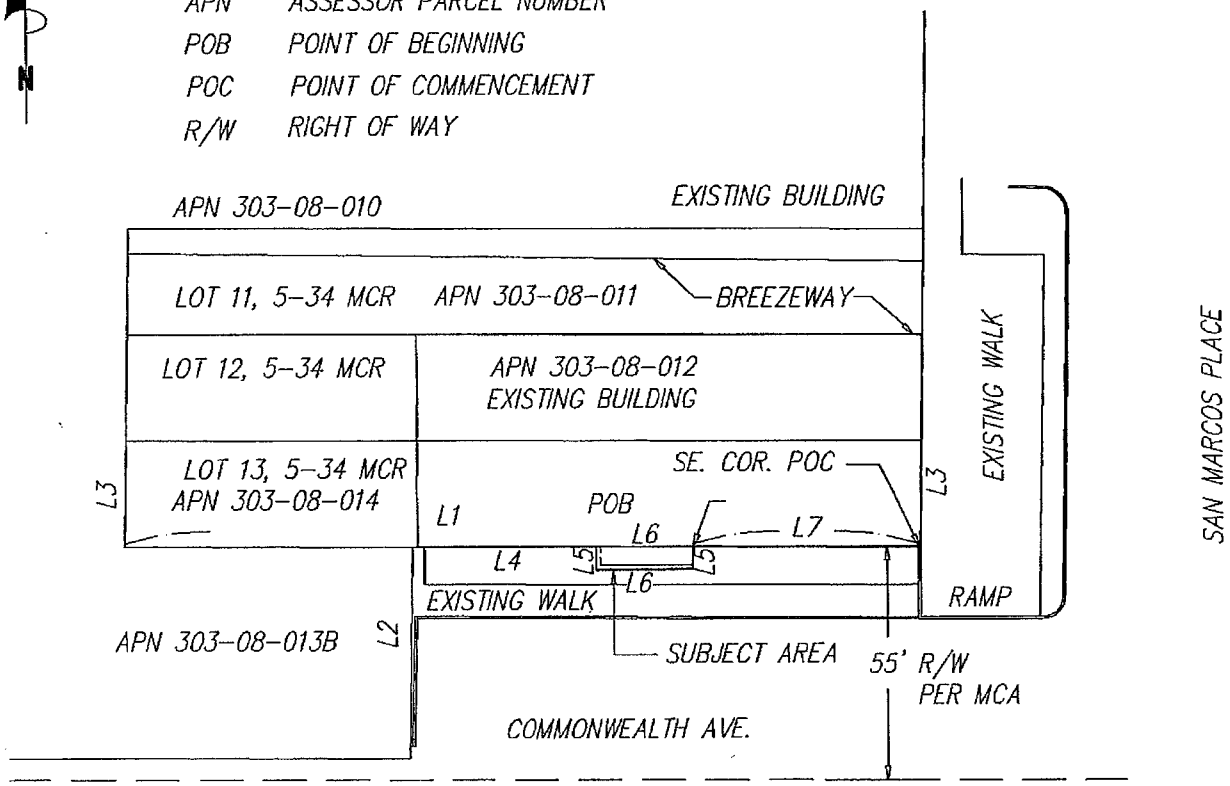
EXPIRES 09/30/2017


**ARIZONA SURVEYORS, INC.**
**11445 EAST VIA LINDA, SUITE 2-447**
**SCOTTSDALE, ARIZONA 85259-2638**
**PHONE - 480-816-9773**
**FAX - 480-816-9735**
**EMAIL - jwazrls@gmail.com**


*SURVEY: EXHIBIT A*
*JOB NO. CRUST-SM*
*DATE: 02/06/2015*
*SHEET 1 OF 1*

## TO ACCOMPANY DESCRIPTION

MCA MARICOPA COUNTY ASSESSOR
APN ASSESSOR PARCEL NUMBER
POB POINT OF BEGINNING
POC POINT OF COMMENCEMENT
R/W RIGHT OF WAY




| LINE | BEARING | DISTANCE |
|---|---|---|
| L1 | S 89°48'16" E | 188.02' |
| L2 | N 01°04'45" E | 49.89' |
| L3 | N 01°04'45" E | 25.00' |
| L4 | S 89°48'16" E | 120.00' |
| L5 | N 00°11'44" E | 5.33' |
| L6 | S 89°48'16" E | 23.00' |
| L7 | S 89°48'16" E | 53.32' |

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37937
JOHN M.
WARE
Date Signed 02/16/15
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SCOTTSDALE, ARIZONA 85259-2638
PHONE - 480-816-9773
FAX - 480-816-9735
EMAIL - jwazrls@gmail.com


SURVEY: EXHIBIT B
DRAWN: JMW
CHECK: KS
SCALE: 1"=40'
JOB NO. CRUST-SM
DATE: 02/06/2015
SHEET 1 OF 1

**EXHIBIT "B"**

**CHANDLER BOULEVARD RIGHT OF WAY**

The North 20 feet of the following described property:

A portion of the Northwest quarter of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and

Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 33;

Thence North 89 degrees 59 minutes 30 seconds West, a distance of 14.00 feet;

Thence South 00 degrees 33 minutes 43 seconds West, a distance of 45.00 feet to the POINT OF BEGINNING;

Thence continuing South 00 degrees 33 minutes 43 seconds West, a distance of 293.77 feet;

Thence North 76 degrees 18 minutes 07 seconds West, a distance of 62.93 feet;

Thence North 90 degrees 00 minutes 00 seconds West, a distance of 160.02 feet;

Thence South 60 degrees, 00 minutes, 00 seconds West, a distance of 90.10 feet;

Thence North 90 degrees 00 minutes 00 seconds West, a distance of 50.00 feet;

Thence North 00 degrees 00 minutes 30 seconds East, a distance of 103.93 feet;

Thence North 42 degrees 17 minutes 49 seconds East, a distance of 270.39 feet;

Thence North 00 degrees 00 minutes 30 seconds East, a distance of 20.00 feet;

Thence South 89 degrees 59 minutes 30 seconds East, a distance of 170.09 feet to the POINT OF BEGINNING.

# EXHIBIT C

When recorded, mail to:
CITY OF CHANDLER
Mail Stop 602, P.O. Box 4008
Chandler, Arizona 85244-4008
Attn: K. Scott McCoy

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This document is exempt from Affidavit and Fee requirements pursuant to A.R.S. §11-1134(A)(3).

## QUITCLAIM DEED

For and in consideration of the sum of Ten and NO/100 Dollars ($10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, SAN MARCOS HOTEL LLC, a Delaware limited liability company, does hereby quitclaim to CITY OF CHANDLER, an Arizona municipal corporation, all right, title, or interest in the following real property situated in Maricopa County, State of Arizona:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE (the "Property").

The interest in the Property herein conveyed is expressly made subject to any rights-of-way or easements that may exist for sewer, gas, water or similar pipelines and appurtenances, and for canals, laterals, ditches and appurtenances, and for electric, telephone and similar lines and appurtenances, and the same, if there are any, shall continue as they existed prior to the execution and recording of this quitclaim deed.

# EXHIBIT C

DATED this _____ day of _____, 2015.

SAN MARCOS HOTEL, LLC,
a Delaware limited liability company

By: San Marcos/Interwest LLC, a Delaware limited liability company, its Manager

By: ICC San Marcos Management LLC, a Delaware limited liability company, its Manager

By: _____
Its:

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF _____)
)ss.
County of _____)

On _____, before me, _____ personally appeared Shahyar Zayanderoudi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

_____

# EXHIBIT C

EXHIBIT A
Legal Description

The North 20 feet of the following described property:

A portion of the Northwest quarter of Section 33, Township 1 South, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the North quarter corner of said Section 33;

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Thence North 00 degrees 00 minutes 30 seconds East, a distance of 103.93 feet;

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Thence North 00 degrees 00 minutes 30 seconds East, a distance of 20.00 feet;

Thence South 89 degrees 59 minutes 30 seconds East, a distance of 170.09 feet to the POINT OF BEGINNING.

# EXHIBIT C

When recorded, mail to:
San Marcos Hotel LLC
C/O Interwest Capital Corporation
7724 Girard Avenue, Ste. 300
La Jolla, California 92037
Attn: Alex Roudi

This document is exempt from Affidavit and Fee requirements pursuant to A.R.S. §11-1134(A)(3).

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DATED this _____ day of _____, 2015.

Approved as to form:

_____
Chandler City Attorney

CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Its: _____

STATE OF ARIZONA )
) ss.
County of Maricopa )

On this, the ____ day of _____, 2015, before me, the undersigned, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the _____ of the City of Chandler, an Arizona municipal corporation, and that he/she, as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the municipal corporation by himself/herself as such officer.

My Commission Expires:

_____

_____
Notary Public