

ADD 58
SEP 20 2007



MEMORANDUM Economic Development - Council Memo ED08-009

DATE: September 19, 2007

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER RD

FROM: RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR 

SUBJECT: PURCHASE OF FAÇADE CONSERVATION EASEMENT FOR THE
PURPOSE OF RESTORING THE FACADES AT 91 AND 95 W.
BOSTON STREET

Per Councilmember Weninger's inquiries at Monday's Council Study Session, I have enclosed for your review the following information:

- Concept Elevations for "Oregon Arcade"
- E-mail messages from Peter Sciacca concerning estimated linear footage for exterior improvements and financial assistance provided by landlord to tenants
- Façade Conservation Program – Public/Private Investment (FY02-07)

Attached also is a copy of the proposed Downtown Chandler Façade Conservation Program Agreement, Façade Conservation Easement Agreement, and Consent Agreement.

Previously, Council approved Downtown Improvement Fund (DIF) matching grant funds for Kizake (\$50,000) and Vivi's Boutique (\$50,000) for tenant improvements.

If you have any questions, or require additional information, please let me know.



"Peter Sciacca - 1 Source
Signature Glassware Inc."
<peter@1sourceinc.com>
09/19/2007 03:51 PM

To <heather.figueroa@chandleraz.gov>
cc
bcc

Subject FW: Council's Questions:

peter sciacca

<http://www.1sourceinc.com>

<http://www.disciacca.com>

81 west boston street

chandler, az 85225

480 517-9777 **office ext 308**

602 330-6888 **cell**

480 517-9888 **fax**

----- Forwarded Message

From: "Peter Sciacca - 1 Source Signature Glassware Inc." <peter@1sourceinc.com>

Date: Wed, 19 Sep 2007 15:42:16 -0700

To: Richard Mulligan <Richard.Mulligan@chandleraz.gov>, "Teri.Killgore@chandleraz.gov" <Teri.Killgore@chandleraz.gov>

Cc: "Jeanne.Bosarge@chandleraz.gov" <Jeanne.Bosarge@chandleraz.gov>

Conversation: Council's Questions:

Subject: Re: Council's Questions:

Dear Mr. Mulligan,

Vivi's Boutique:

We gave
\$10,000 for for T.I., and

We signed a 3 year lease with Vivianna. (with 2 **3-year** options)

Kizake:

We gave
\$10,000 for for T.I., and
\$10,000 for negotiating his own lease. (\$20,000 total)
We signed a 10 year lease with Ron. (with 2 **5-year** options)

Peter Sciacca

On 9/18/07 5:15 PM, "Peter Sciacca - 1 Source Signature Glassware Inc." <peter@1sourceinc.com> wrote:

Dear Mr. Mulligan,

Our exterior façade for both properties is about 200 linear feet:

- 45 front + 45 rear + 80 side + 30 common wall side (urban crib property)

The unofficial formula (based on other façade grants) is \$900 per linear foot for city grant participation.

Without the city's help, it is extremely difficult, if not impossible to get a bank loan for any improvements for property that dates back nearly 100 years. Leases and tenant participation, do not cut it, and thus the city grant is a true lifesaver for improvements in downtown.

Some of the 20-year façade items per the program are as follows:

Eligible Improvements

All work performed for a project to be funded under this Program (the "project") must be **exterior** work that results in the preservation of exteriors of buildings or related structures on the subject property. This includes, but is not limited to:

- Exterior building walls
- Roofs
- Windows
- Cornices
- Doors
- Masonry Repair
- Foundation Repair
- Reversal of inappropriate alterations
- Reconstruction of original architectural elements based on historic documentation"

peter sciacca

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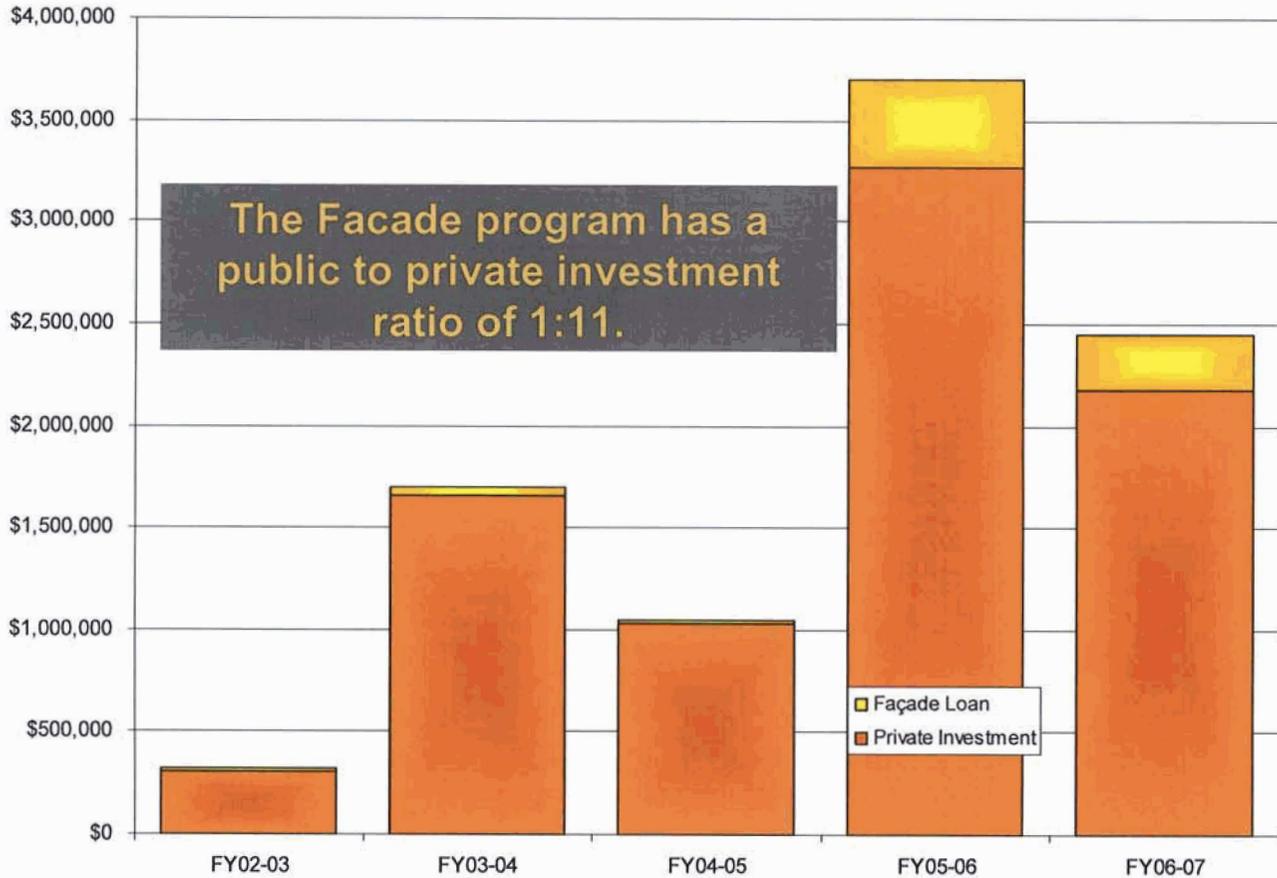
----- End of Forwarded Message

Façade Conservation Program

City of Chandler — Economic Development Division



Public/Private Investment



Company Name	Façade Loan	Private Investment	Total Investment
FY02-03			
In Pockets	\$20,000	\$305,000	\$325,000
Fiscal Year Subtotal	\$20,000	\$305,000	\$325,000
FY03-04			
Thomas Building	\$40,000	\$1,656,970	\$1,696,970
FY04-05			
di Sciacca	\$20,000	\$1,030,000	\$1,050,000
FY05-06			
Bank One Building	\$190,000	\$2,234,325	\$2,424,325
Arrow Pharmacy	\$250,000	\$1,030,000	\$1,280,000
Fiscal Year Subtotal	\$440,000	\$3,264,325	\$3,704,325
FY06-07			
Inspirador	\$275,000	\$2,177,000	\$2,452,000
TOTAL	\$795,000	\$8,433,295	\$9,228,295

DOWNTOWN CHANDLER FACADE CONSERVATION PROGRAM AGREEMENT

THIS DOWNTOWN CHANDLER FACADE CONSERVATION PROGRAM AGREEMENT (the "Program Agreement") is made as of the ___ day of _____, 2007, by and between the City of Chandler, an Arizona municipal corporation (the "City"), and PSCI INVESTMENTS, L.L.C. (the "Property Owner"), whose principal address is 81 West Boston Street, Chandler, Arizona.

RECITALS

A. The City has funds available for the purpose of purchasing conservation easements from the owners of certain improved commercial property in the Downtown Chandler Enhanced Municipal Services District that is of significant historical, architectural or cultural importance to the City and whose owners will agree to use the proceeds of such sale to rehabilitate such property in accordance with agreed upon specifications (the "Program").

B. The Property Owner holds title in fee simple to that certain commercial property located at 91 and 95 West Boston Street, Chandler, Arizona (the "Property"), which includes title to all improvements, fixtures and buildings thereon (the "Structures"). (Any reference to the "Property" hereinafter shall be deemed to include each of the Structures.)

C. The Property Owner has submitted an application under the Program to sell a conservation easement on the exterior surfaces or facades of each of the Structures (collectively, the "Facades") and on the Property to the City.

AGREEMENT

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants contained herein, the City and the Property Owner agree as follows:

1. Purchase Price. The Property Owner offers to sell and the City agrees to purchase a conservation easement on the Facades and the Property for an amount not to exceed \$180,000.00 (the "Purchase Price"), provided that the Property Owner enters into and complies with all of the terms and conditions of this Program Agreement.

2. Scope of Work. The Property Owner agrees to utilize the Purchase Price to carry out or cause to be carried out the exterior rehabilitation work on the Facades as set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Scope of Work"). (The work to be performed in accordance with the Scope of Work is herein called the "Project").

3. Agreement, Acknowledgment and Representation by Property Owner. The Property Owner agrees with, and acknowledges and represents to, the City that:

3.1. Review of Documents. The Property Owner (a) has read this Program Agreement, the Facade Conservation Easement and Agreement that is further described in paragraph 5.1 hereof (the "Conservation Easement"), the Downtown Chandler Facade Conservation Program description, and the Scope of Work for the Project, (b) fully understands

the terms and conditions of the purchase as set forth herein, and (c) agrees to be bound by those terms and conditions.

3.2. Failure to Comply. Any failure by the Property Owner to comply with the terms and conditions of this Program Agreement may terminate the Property Owner's right to be paid the Purchase Price.

3.3. No Liability. The City in no manner shall be liable to the Property Owner for any and all monies expended by the Property Owner in connection with the Program or the Project, whether or not the Property Owner is actually paid the Purchase Price.

4. Commencement of Work. The Property Owner shall commence, or cause to be commenced, the construction of improvements and other repairs that are the Project within ninety (90) days of the date of this Program Agreement. For the purposes of this Program Agreement, the Project shall be deemed to have commenced when materials have been delivered to the Property and work on the Facades is visible ("Commencement of Work").

5. Conditions Precedent to Disbursement of the Purchase Price. Subject to paragraphs 6 and 8 hereof, the Purchase Price shall be disbursed to the Property Owner upon satisfaction of the following conditions precedent:

5.1. Conservation Easement. The City shall have received a duly acknowledged irrevocable Conservation Easement executed by the Property Owner. The City shall hold the Conservation Easement until the Project has been satisfactorily completed. After completion, the City shall record the Conservation Easement in the Maricopa County Recorder's Office. In the event of a default by the Property Owner, and only a portion of the Purchase Price has been paid, the City shall record the Conservation Easement for the amount paid by the City, which shall be deemed to be the Purchase Price. The Conservation Easement will (a) provide the City with an enforceable exterior conservation easement consistent with Arizona's Uniform Conservation Act, A.R.S. §§ 33-271 through 276, inclusive, as and if amended, (b) impose various limitations and obligations upon the Property Owner to preserve the historical, architectural and cultural aspects of the Property, and (c) otherwise be in such form and with such content as required by the City in its sole discretion.

5.2. Title Report. The City shall have received a title report current to the date that the Purchase Price is disbursed (the "Title Report") issued by a title insurance company acceptable to the City in its sole discretion, which reflects that the Property Owner holds fee simple title to the Property and is otherwise in such form and with such content as the City shall reasonably require.

5.3. Liens or Encumbrances. The City shall have received complete copies of any and all documents evidencing any and all liens or encumbrances against the Property reflected on the Title Report.

5.4. Consent of Persons With Interest In Property. The City shall have received written consent, in recordable form, from the holder of any lien, encumbrance, or other interest in the Property as of the date that the Purchase Price is disbursed (the "Holder"), which consent shall permit the granting and conveyance of the Conservation Easement to the City, shall

acknowledge that the Conservation Easement shall run with the Property, and shall contain such other terms as the City may reasonably require.

5.5. Insurance Certificate. The City shall have received a certificate of insurance, which certifies that the subject Structure is insured as required by the Conservation Easement and is otherwise in such form and with such content as the City may reasonably require.

5.6. Building Permit. If required by the nature of the Project, as determined by the City in its sole discretion, the City shall have received a copy of the building permit issued by the City's Development Services Department for the Project that is in such form and with such content as the City may reasonably require.

5.7. Other Documents or Requirements. The City shall have received such other and further documents as may be required by the City, in its sole discretion.

5.8. Completion of Improvements. The Project shall have been satisfactorily completed in accordance with the City's program guidelines and design standards, as determined by the City, within twelve (12) months after the Commencement of Work, unless an extension is granted by the City (the "Completion Deadline").

6. Disbursement. The City will pay the Property Owner up to three (3) draws during the time of construction of the work provided that the Property Owner shall present the City with an invoice for that portion of the work which has been completed, and the City is satisfied after inspection that the work has been satisfactorily completed in accordance with this Agreement. Notwithstanding any other provision of this Program Agreement, all of the conditions precedent stated in paragraph 5, except subparagraph 5.8, shall be satisfied as of the time of the first draw made under this paragraph 6.

7. Non-Compliance and Right to Cure. In the event the Property Owner completes the Project on or before the Completion Deadline but the City determines that the Project or a portion thereof has not been completed in accordance with the City's program guidelines and design standards, the Property Owner shall have the following right to cure (provided the Property Owner shall have satisfied all conditions precedent set forth in paragraph 5, except subparagraph 5.8):

7.1. Improvements Unacceptable. In the event the City does not approve all repairs and improvements completed in connection with the Project, the City shall notify the Property Owner in writing ("City Notice I") of the reasons the Project in whole or in part is unacceptable. In the event a portion of the Project, which is sufficient to justify payment of a portion of the Purchase Price, is approved, the City Notice I will advise the Property Owner as to the portion of the Purchase Price to which the Property Owner is currently entitled.

7.2. Cure Period. Upon receipt of the City's Notice I, the Property Owner shall have up to fifteen (15) days to notify the City in writing that the Property Owner intends to cure the defects detailed in City Notice I, and in such case, the Property Owner shall have sixty (60) days from the date the Property Owner received the City Notice I to cure such defects (the "Cure Period").

7.3. Failure to Cure. In the event the Property Owner fails to respond to City Notice I within fifteen (15) days or otherwise notifies the City that the Property Owner does not elect to cure the defects, the City shall disburse to the Property Owner that portion of the Purchase Price, if any, approved in City Notice I and the Property Owner's right to receive any other monies under the Program or any portion of the balance of the funds held by the City shall terminate.

7.4. Cure Effected. In the event the Property Owner elects to cure the defects, the City shall inspect the subject repairs and improvements within fifteen (15) days after the lapse of the Cure Period. If those repairs and improvements have been satisfactorily completed in the sole discretion of the City, the City will pay the Purchase Price to the Property Owner within thirty (30) days of approving the work performed. In the event the City in its sole discretion shall determine that the repairs and improvements have not been completed as required by the City Notice I, the City shall so notify the Property Owner in writing ("City Notice II") and shall therein describe the reason the repairs and improvements, in whole or in part, were unacceptable. In the event a portion of the subject repairs and improvements have been approved which is sufficient to justify a partial reimbursement, the City will notify the Property Owner of such partial payment in City Notice II and will pay that amount to the Property Owner within thirty (30) days of the date of City Notice II. The Property Owner shall not have any right to any portion of the Purchase Price that is not approved for disbursement. The determination of the City as to whether the defects described in the City Notice I have been cured shall be final.

8. Termination of the Award. In the event the Property Owner fails to satisfy the conditions precedent set forth in paragraph 5 hereof (including satisfactory curing of any defect in the Project in accordance with subparagraph 7.4 hereof) within six (6) months following the Commencement of Work as defined in paragraph 4, the Property Owner's right to be paid the Purchase Price or any portion thereof shall automatically terminate.

9. Non-Transferable. The rights granted to the Property Owner herein are non-transferable and may not be transferred or assigned. Any attempted transfer or assignment shall automatically be deemed to be null and void.

10. Notices. All notices required or permitted under this Program Agreement and the Conservation Easement shall be deemed given upon personal delivery by hand to the authorized representatives of either the Property Owner or the City or three (3) days after being sent by certified mail, return receipt requested, postage prepaid, addressed to the respective party at its address below:

If to the City:

City of Chandler
Downtown Redevelopment Office
P.O. Box 4008, M.S. 202
Chandler, Arizona 85244-4008

If to the Property Owner:

PSCI Investments, L.L.C.
Peter Sciacca
81 W. Boston Street
Chandler, Arizona 85225

Each party may change its address as set forth herein by written notice to such effect directed to the other party.

11. Miscellaneous.

11.1. Amendments and Supplements. This Program Agreement may not be amended, modified or supplemented in any manner except by a written agreement executed by both the City and the Property Owner.

11.2. Severability. In the event any provision of this Program Agreement is deemed to be illegal, invalid or unenforceable by a court of competent jurisdiction, such provisions shall not affect the remainder thereof.

11.3. Standard of Approval. Where within this Program Agreement, the approval of the City is required or permitted, the City may grant or withhold its approval or its consent in its sole, absolute and uncontrolled discretion.

11.4. Waiver. The waiver by the City of any failure by the Property Owner to comply with any of the terms and conditions of this Program Agreement must be in writing and in any event shall not be deemed to be a waiver of any subsequent failure of the Property Owner to comply with the terms or conditions of this Program Agreement.

11.5. Time of the Essence. Time is of the essence in the performance of each and every term and condition of this Program Agreement by the parties hereto.

11.6. Governing Law. This Program Agreement, its construction, validity and effect, shall be governed and construed by and in accordance with the laws of the State of Arizona.

11.7. Cancellation. This Program Agreement is subject to cancellation pursuant to A.R.S. § 38-511, as and if amended.

11.8. City Council Approval; City Designee. This Program Agreement is subject to the approval of the Chandler City Council. This Program Agreement shall be administered through the Economic Development Director or his/her designee, who shall be the City's agent authorized to make all decisions and take all actions to be made or taken by the City under this Program Agreement.

12. Property Owner's Expenses. The Property Owner shall bear the cost of satisfying all of the conditions precedent under paragraph 5 above, except that the City shall bear the cost of recording the Conservation Easement.

IN WITNESS WHEREOF, the Property Owner and the City have executed this Program Agreement on the date first above written.

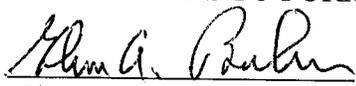
CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Richard K. Mulligan
Economic Development Director

ATTEST:

City Clerk

APPROVED AS TO FORM:


City Attorney

PROPERTY OWNER

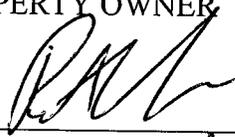
By 
Peter Sciacca
Its member/manager

EXHIBIT "A"

SCOPE OF WORK

Name: PSCI Investments LLC: Project: Exterior of 91 and 95 West Boston
Business Address: 81 West Boston Street, Chandler, AZ
Contact Name: Peter Sciacca
Phone: 480 517 9777 Fax: 480 517 9888 Email: peter@1sourceinc.com

Project Summary & Scope of Work:

The downtown Chandler façade conservation program is for the exterior work at TWO addresses of 91 and 95 West Boston. This is known to be the very first Post Office as built in the city center in 1926. The building has a beautiful tin roof ceiling. Though the museum does not have any photos of this property, it has rich Chandler history and character.

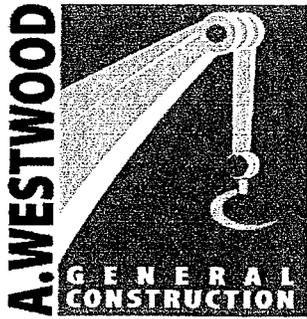
Instead of applying for TWO façade grants, we would like to apply for ONE grant, since the work will be done at the same time. The exterior renovation consists of 4 walls as follows: front façade on Boston Street, side façade along Oregon street, rear façade in alleyway behind property and side rear wall of 85 west (common wall) to our property. In addition to brick exposure and repair, we will be adding stucco painted cap along entire property. Other major improvements for the exterior, as allowable under this program, include truss and roof repair, new foam roof, new roof drainage, water damage repair, restoration of 1926 skylights, restoration of 1926 lead glass windows along Boston, new windows and wooden storefronts, and needed repair of parapet fascia including the neighboring property not owned at 85 West Boston.

Though the commercial contracting bid is estimated at \$373,000, we anticipate other unexpected costs to properly complete the project in addition to money already spent with architects and other soft costs. This is based on real experience and the \$500,000 spent on diSciacca, our property at 81 West Boston.

Lien holders on the Property (Please attach title report): Attached
Please attach photos of the existing building, a site plan and proposed elevation.

Architect: robert brown architects
549 south 48th street, suite 108 tempe, az 85281
p 480.377.2222 f 480.377.2230
robert@rbrownarch.com <http://www.robertbrownarchitects.com>

Estimated Total Cost of Project: \$435,000 Amount Requested: \$180,000
Attach a detailed list of costs including materials, design, installation, etc.



COMMERCIAL · RESIDENTIAL

LICENSED/BONDED/INSURED

Project: Oregon Steet Arcade Exterior
 Owner: City of Chandler
 Client: PSCI Investment, LLC

Date: August 28, 2007

S.E.C. Boston Street and Oregon Street
 Chandler, AZ

Description of Proposed Work [Scope]:

\$ US DOLLAR AMOUNTS

Description of proposed work per architectural plans drawn by Robert Brown Architects dated 08/15/2007, project 07013.00

1. Remove stucco from four walls and haul away	7,700.00
2. Brick repair on exposed walls	13,200.00
3. Roof repair [water damaged areas]	13,200.00
4. Truss system reinforcement [1926—update]	16,500.00
5. Skylight structure repair—[4000 x three skylights]	12,000.00
6. Skylight new glass tops and waterproofing [x 3]	16,500.00
7. New code compliant PVC drainage for roof	9,350.00
8. Boston Street parapet [fascia] stucco repair	9,020.00
9. Boston Street parapet [fascia] paint [body and trim]	3,300.00
10. Boston Street storefront [below collanade] stucco	4,400.00
11. Remove existing front doors [91 and 95 West Boston]	4,400.00
12. New wooded and glass doors on 91 and 95 West Boston	17,600.00
13. Repair 1926 Lead Glass and install at 91 and 95 West Boston	19,800.00
14. Paint new storefronts of both 91 and 95 West Boston	8,800.00
15. New window storefront near front doors	16,500.00
16. New steel framed window treatment for Oregon	9,900.00
17. New window in steel window treatment for Oregon	7,150.00
18. New foam roof system	27,500.00
19. New roof curbing for HVAC system for 91 and 95 West Boston	3,300.00
20. Removal of preexisting electrical panels	3,300.00
21. Installation of new electrical panels for 91 and 95 West Boston	13,200.00
22. New water main from alley	3,300.00
23. New fire water main from alley	8,800.00
24. New sewage line from alley	5,500.00
25. Exterior lighting [front and rear] cosmetic and safety	7,500.00
26. New rear entry doors	4,400.00
27. Project dumpster	1,100.00
28. Project fence	550.00
29. Brick wall with wrought iron fence at rear of property at alleyway	13,200.00
30. General conditions	16,500.00
31. Profit [15%] and Project Overhead/Management	17,170.17
32. Tax	

Subtotal: \$373,002.48

CONTRACT AMOOUNT: \$373,002.48

[623] 694-8804 mobile
 [623] 773-0339 office
 [623] 773-0338 fax

WHEN RECORDED RETURN TO:
City of Chandler
City Clerk
P.O. Box 4008, Mail Stop 606
Chandler, AZ 85244-4008

FACADE CONSERVATION EASEMENT AND AGREEMENT

THIS FACADE CONSERVATION EASEMENT AND AGREEMENT (the "Easement") is made as of the ____ day of _____, 2007, by and between PSCI INVESTMENTS, L.L.C. (the "Property Owner"), whose principal address is 81 W. Boston Street, Chandler, and the City of Chandler, an Arizona municipal corporation (the "City").

RECITALS

A. The City is authorized under Arizona's Uniform Conservation Act, Arizona Revised Statutes, Sections 33-271 through 276, inclusive (collectively, as and if amended, the "Act") to accept conservation easements to preserve the historical, architectural, archaeological or cultural aspects of real property within the City of Chandler, Arizona.

B. The Property Owner holds title in fee simple to that certain property located at 91 and 95 W. Boston Street, Chandler, Maricopa County, Arizona, which is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property"), including all improvements, fixtures and buildings thereon (the "Structures"). (Any reference to the "Property" hereinafter shall be deemed to include each of the "Structures".)

C. The Property Owner and the City recognize the historical, architectural and cultural aspects of the Property and desire to conserve and preserve those aspects of the Property, which are believed to enhance the value and significance of the Property.

D. On _____, 20____, the Property Owner executed a Downtown Chandler Facade Conservation Program Agreement (the "Program Agreement"), wherein the Property Owner agreed to sell to the City a conservation easement on the exterior surfaces and facades of each of the Structures (collectively, the "Facades") and any associated fences, walls, or fixtures on the Property, and use the proceeds of the sale, together with the Property Owner's own funds or own labor, to rehabilitate the Facades in accordance with the scope of work identified in the Program Agreement (the "Project").

E. In order to effectuate the obligations of the Property Owner under the Program Agreement, the Property owner desires to sell, grant, convey, transfer and assign to the City, and the City desires to accept, a conservation easement on the Facades and the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the City's agreement to pay the Property Owner up to \$180,000.00 (the "Purchase Price") subject to the terms and conditions of the Program Agreement, the Property Owner and the City hereby agree as follows:

1. Grant of Easement: The Property Owner does hereby irrevocably grant, convey, transfer and assign unto the City a conservation easement, as provided for under the Act, for a term of twenty (20) years from the date hereof through and including _____, 20____ (the "Term"), in and to the Facades and the Property, and which easement contains the covenants herein stated for the public purpose of conserving and preserving the Facades and historical, architectural and cultural aspects of the Property, and in order to accomplish the other objectives set forth herein.

2. Property Owner's Covenants: In furtherance of the Conservation Easement herein granted, the Property Owner hereby covenants and agrees with the City as follows:

2.1. Documentation of the Exterior Condition of the Facades and the Property. For the purposes of this conservation easement, the exterior condition of the Facades and the Property will be depicted in an original set of photographs (collectively, the "Photographs") dated thirty (30) days following the issuance of a certificate of occupancy for the Project and filed in the office of the City of Chandler Downtown Redevelopment Office. The exterior condition and appearance of the Facades and the Property as depicted in the Photographs (collectively, the "Present Facades") will be deemed to describe their external nature as of the date thereof.

2.2. Maintenance of the Facades. The Property Owner will, at all times, maintain the Facades in a good and sound state of repair in accordance with the City's existing guidelines for the City's Downtown Revitalization Program of 1990 in which the Property is located (the "Standards") so as to prevent the deterioration of the Facades or any portion thereof. Subject to the casualty provisions of paragraph 4 below, this obligation to maintain shall require replacement, repair and reconstruction according to the Standards within a reasonable time whenever necessary to have the external nature of the Structures at all times appear to be the same as the Present Facades, except as otherwise approved in advance in writing by the City's Downtown Coordinator.

2.3. Maintenance of the Structural Elements. The Property Owner will maintain and repair the Structures as required to ensure the structural soundness and the safety of the Structures and the Facades.

2.4. Inspection. In order to periodically observe the Facades, representatives of the City shall have the right to enter the Property to inspect the Facades. This inspection will be made at a time mutually agreed upon by the Property Owner and the City.

2.5. Conveyance and Assignment. The City may convey, transfer and assign this Easement to a similar local, state or national organization whose purposes, inter alia, is to promote historic preservation, and which is a "qualified organization" under Section 170(h)(3) of the Internal Revenue Code of 1986, as amended, provided that any conveyance or assignment requires that the conservation purposes for which this Easement was granted will continue to be carried out.

2.6. Insurance. The Property Owner, at the Property Owner's sole cost and expense, shall at all times (a) keep the Structures insured at their replacement value on an "all risk" basis to ensure complete restoration of the Facades in the event of loss or physical damage. Said property coverage policy shall contain provisions which ensure that the face amount of the policy is periodically adjusted for inflation, and the Property Owner shall provide a Certificate of Insurance to the City evidencing such insurance, including an endorsement naming the City as a loss payee; and (b) carry and maintain liability insurance in an amount satisfactory to the City to protect against injury to visitors or other persons on the Property, and the Property Owner shall provide a Certificate of Insurance to the City evidencing such insurance, and naming the City as an additional insured on the policy.

2.7. Visual Access. The Property Owner agrees not to substantially obstruct the opportunity of the general public to view the exterior architectural features of the Property from adjacent publicly accessible areas such as public streets and sidewalks. If the Facades are not visible from a public area, then the Property Owner agrees that the general public shall be given the opportunity on a periodic basis to view the characteristics and features of the Facades that are preserved by this Easement to the extent consistent with the nature and conditions of the Property.

3. Warranties and Representations of the Property Owner. The Property Owner represents and warrants to the City as follows:

3.1. Information Furnished, True and Correct. All information given to the City by the Property Owner in order to induce the City to accept this Easement, including all information contained in this Easement, is true, correct and complete.

3.2. Legal, Valid and Binding. This Easement is in all respects, legal, valid and binding upon the Property Owner and enforceable in accordance with its terms, and grants to the City a direct, valid and enforceable conservation easement upon each of the Facades.

3.3. No Impairment of Facade Conservation Easement. The Property Owner, for itself, its successors and assigns, has not reserved, and to the Property Owner's knowledge, no other person or entity has reserved or obtained any rights, the exercise of which may impair the conservation easement granted herein.

4. Application of Insurance Proceeds. Subject to the insurance proceeds requirements of any recorded Deed of Trust or Mortgage applicable to the Property, in the event of damage or destruction of the Structures resulting from casualty, the Property Owner agrees to apply all

available insurance proceeds and donations to the repair and reconstruction of the damaged Structures, with such funds applied first to repair and reconstruct those features determined pursuant to the Program Agreement to be eligible for City Funds. In the event the City determines, in its reasonable discretion, after reviewing all bona fide cost estimates in light of all available insurance proceeds and other monies available for such repair and reconstruction, that either (a) the damage to the Structures is of such magnitude and extent that repair and reconstruction of the damage would not be possible or practical or (b) that the damaged Structures present an imminent hazard to public safety, then the Property Owner may elect not to repair or reconstruct the damaged Structures. In the event of such a determination by the City, the Property Owner will, at the Property Owner's sole cost and expense, raze the damaged Structures and remove all debris, slabs, and any other portions and parts of the damaged Structures within the time period required by the City to protect the health, safety and welfare of the public, unless the Property Owner has commenced and is diligently pursuing repair or reconstruction of the damaged Structures. Upon razing of the damaged portion of the Structures, the City shall release any interest it has in the insurance proceeds for the damaged Structures. Nothing in this paragraph is intended to supersede or impair the rights to insurance proceeds of a lienholder pursuant to a recorded Deed of Trust or Mortgage applicable to the Property.

5. Indemnification. The Property Owner covenants and agrees to pay, protect, indemnify, hold harmless and defend the City at the Property Owner's sole cost and expense from any and all liabilities, claims, costs, attorneys' fees, judgments or expenses asserted against the City, its mayor, city council members, employees, agents or independent contractors, resulting from actions or claims of any nature arising out of the conveyance, possession, administration or exercise of rights under this Easement, except in such matters arising solely from the intentional misconduct or gross negligence of the City, its mayor, city council members, employees and agents.

5.1. Survival of Indemnification. The obligations of the Property Owner under this indemnification shall survive termination of this Easement for a period of two (2) years.

5.2. Explanation of Indemnification. For purposes of explanation of paragraph 5 only, and without in any manner limiting the extent of the foregoing indemnification, the Property Owner and the City agree that the purpose of paragraph 5 is to require the Property Owner to bear the expense of any claim made by any third party against the City, which arises because the City has an interest in the Property as a result of this Easement. The Property Owner will have no obligation to the City for any claims that may be asserted against the City as a direct result of the City's intentional misconduct or gross negligence.

6. Default/Remedy. In the event that (a) the Property Owner fails to perform any obligation of the Property Owner set forth herein or in the Program Agreement, or fails to otherwise comply with any stipulation or restriction set forth herein, or (b) any representation or warranty of the Property Owner set forth herein is determined by the City to have been untrue when made, then in addition to any remedies now or hereafter provided by law and in equity, the City, following prior written notice to the Property Owner, may (i) institute suit(s) to enjoin such violation by ex parte, temporary, preliminary or permanent injunction, including prohibitory and

or mandatory injunctive relief, and to require the restoration of the Property to the condition and appearance required under this Easement, or (ii) enter upon the Property, correct any such violation, and hold the Property Owner responsible for the cost thereof, and such cost until repaid shall constitute a lien on the Property, or (iii) revoke the City's acceptance of this Easement and upon written notice from the City, the Property Owner shall reimburse the City the full amount of the Purchase Price. Determination of the amount due to the City shall be made as follows: (i) during the first half of the Term of the Easement, the Property Owner shall reimburse the City the full amount of the Purchase Price; (ii) thereafter, on each anniversary of the execution of the Easement, the amount the Property Owner shall pay in the event of a default shall be reduced by a pro-rata portion of the original amount of the Purchase Price for the remaining years of the Term. In the event the Property Owner violates any of its obligations under this Easement, the Property Owner shall reimburse the City for any and all costs and expenses incurred by the City in connection therewith, including all court costs and attorneys' fees.

7. Waiver. The exercise by the City of any remedy hereunder shall not have the effect of waiving or limiting any other remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

8. Effect and Interpretation. The following provisions shall govern the effectiveness and duration of this Easement:

8.1 Interpretation. Any rule of strict construction designed to limit the breadth of restriction on alienation or use of property shall not apply in the construction or interpretation of this Easement, and this Easement shall be interpreted broadly to affect the transfer of rights and restrictions on use herein contained.

8.2 Invalidity of the Act. This Easement is made pursuant to the Act as the same now exists or may hereafter be amended, but the invalidity of such Act or any part thereof, or the passage of any subsequent amendment thereto, shall not affect the validity and enforceability of this Easement according to its terms, it being the intent of the parties to bind themselves, their successors, heirs and assigns, as applicable, during the Term hereof, whether this Easement be enforceable by reason of any statute, common law or private agreement either in existence now or at any time subsequent thereto.

8.3 Violation of Law. Nothing contained herein shall be interpreted to authorize or permit the Property Owner to violate any ordinance or regulation relating to building materials, construction methods or use, and the Property Owner agrees to comply with all applicable laws, including, without limitation, all building codes, zoning laws and all other laws related to the maintenance and demolition of historic property. In the event of any conflict between any such laws and the terms hereof, the Property Owner promptly shall notify the City of such conflict and shall cooperate with the City and the appropriate authorities to accommodate the purposes of both this Easement and such ordinance or regulation.

8.4 Amendments and Modifications. For purposes of furthering the preservation of the Facades, the Structure and the other Property and the other purposes of this Easement, and to meet changing conditions, the Property Owner and the City are free to amend jointly the terms of this Easement in writing without notice to any party; provided, however, that no such amendment shall limit the Term or interfere with the conservation purposes of this Easement, and further provided that any such amendment shall be authorized, approved and/or ratified by the Chandler City Council. Such amendment shall become effective upon recording the same among the land records of Maricopa County, Arizona, in the Office of the County Recorder.

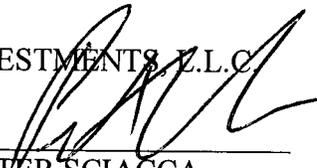
8.5 Recitals. The above Recitals are incorporated herein by this reference.

8.6 Time of the Essence. Time is of the essence in the performance of each and every term and condition of this Easement by the Property Owner.

8.7 Gender. The pronouns "he", "his" and "himself" appearing herein shall be construed to be the singular or plural, masculine, feminine, or neuter gender, as the context requires.

IN WITNESS WHEREOF, the Property Owner and the City have executed this Easement on the date first above written, which Easement shall be effective immediately upon such execution.

PSCI INVESTMENTS, L.L.C.

By: 
PETER SCIACCA

Its: member/manager

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 19 day of September, 2007, by Peter Sciacca the Member/Mgr of the PSCI Investments, a limited liability corporation, being authorized so to do.


Notary Public

My commission expires



CITY OF CHANDLER, an Arizona municipal corporation

By: _____
Richard K. Mulligan
Its: Economic Development Director

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ___ day of _____, 2007 by _____ the Economic Development Director of the City of Chandler, an Arizona municipal corporation, for the municipal corporation, being authorized so to do.

Notary Public

My commission expires:

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

WHEN RECORDED RETURN TO:

City of Chandler
City Clerk's Office
P.O. Box 4008, MS 606
Chandler, Arizona 85244-4008

CONSENT AGREEMENT

THIS CONSENT AGREEMENT (the "Agreement") is made as of the 18th day of Sept., 2007, by and between the City of Chandler, Arizona, an Arizona municipal corporation (the "City"), whose principal address is 55 North Arizona Place, Phoenix, Arizona 85225, and M&I Bank, (the "Lienholder"), whose principal address is 160 N. McQueen Rd., Gilbert, AZ 85233.

RECITALS

A. PSCI Investments, LLC, whose address is 91495 W. Boston St., Chandler, Arizona, (the "Grantor") is indebted to the Lienholder in the amount of \$ 296,817.37 (the "Lienholder Indebtedness"), which Lienholder Indebtedness is evidenced by a Promissory Note dated Feb. 26,2007.

B. The Lienholder Indebtedness is secured by a Deed of Trust (the "Lienholder Security Document"), which Lienholder Security Document was recorded on Feb. 27,2007 in the official records of the Maricopa County Recorder, at Instrument No. 20070234564. The Lienholder Security Document encumbers that certain real property more particularly described in Exhibit "A", attached hereto and made a part hereof, and all improvements located thereon (collectively, the "Property"). The Lienholder's rights, title and interests under the Lienholder Security Document and any other rights, title or interests the Lienholder may have in the Property are hereinafter referred to collectively as the "Lienholder Interest."

C. The City has entered into an agreement with Grantor to purchase a conservation easement in return for Grantor's agreement to utilize the proceeds of such sale to rehabilitate the Property. The conservation easement shall be created through the execution and recording of a document entitled "Facade Conservation Easement and Agreement" (the "Conservation Easement"). As one of the conditions of the purchase, Grantor has agreed to provide the City with a consent agreement, wherein any lienholder on the Property consents to the Conservation Easement and agrees that the Conservation Easement shall run with the Property and shall not be affected in any manner by any sale of the Property by the Lienholder by foreclosure or power of sale. It is intended that the consent agreement shall be recorded.

D. In order to induce the City to purchase the Conservation Easement, the Lienholder has agreed to provide this Agreement. This Agreement is not intended to, nor shall it, be constructed as affecting the priority of the Lienholder interest.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual recitals, the City and the Lienholder hereby agree as follows:

1. Consent. The Lienholder hereby consents to the content, effect, execution and recording of the Conservation Easement and agrees that the Conservation Easement shall run with the Property and shall not be affected in any manner by any sale of the Property pursuant to the Lienholder Security Document, whether by foreclosure or power of sale.

2. Benefit and Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective representatives, successors and assigns.

3. Attorneys' Fees. In the event of litigation with respect to this Agreement, the prevailing party, as determined by the court, shall be entitled to recover its costs, expenses and fees, including reasonable attorneys' fees, as determined by the court.

4. Governing Law. This Agreement, its construction, validity and effect, shall be governed and construed by and in accordance with the laws of the State of Arizona.

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

CITY OF CHANDLER, an Arizona
municipal corporation

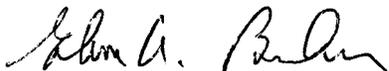
By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

EXHIBIT "A"

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Except the East 5.25 feet, thereof.

#58

SEP 20 2007



Chandler • Arizona
Where Values Make The Difference

MEMORANDUM

Downtown Redevelopment - Memo DT08-011

DATE: SEPTEMBER 14, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *WMP*
RICHARD K. MULLIGAN, ECONOMIC DEVELOPMENT DIRECTOR *RM*

FROM: TERI KILLGORE, DOWNTOWN REDEVELOPMENT MANAGER *TPK*

SUBJECT: PURCHASE OF A FAÇADE CONSERVATION EASEMENT FOR THE PURPOSE OF RESTORING THE FAÇADES AT 91 AND 95 W. BOSTON STREET

RECOMMENDATION: Staff recommends approval of the purchase of a Façade Conservation Easement in the amount of \$180,000 from PSCI Investments, L.L.C., for the purpose of restoring the façade at 91 and 95 W. Boston Street, which served as the first Chandler Post Office for 35 years and the Chandler Arizonan newspaper until 1954.

BACKGROUND/DISCUSSION: The City has set aside funding for Downtown Redevelopment for the purpose of restoring commercial buildings in the Downtown Historic District. Specifically, PSCI Investments, LLC, which owns the buildings at 91 and 95 W. Boston Street, has approached the City for funds to be utilized to renovate the façade of the building. In addition to the façade of the building, PSCI Investments also plans structural work, re-roofing, plumbing and interior renovations. The buildings encompass approximately 3,000 square feet (1,500 each business), and upon completion will become KiZake, a sushi restaurant, and Vivi's Boutique, a clothing boutique. PSCI Investments also plans to create an outdoor dining area for KiZake behind both businesses to create an additional 2,000 square feet for the restaurant. The Architectural Review Committee approved these plans on July 17, 2007.

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OREGON STREET ARCADE

CHANDLER, ARIZONA
PROJECT NUMBER: 07013.00
DATE: JULY 14, 2007



CONCEPTUAL ELEVATIONS PHASE II



SOUTH ELEVATION - PHASE II
SCALE: 3/8" = 1'-0"

NORTH ELEVATION - PHASE II
SCALE: 3/8" = 1'-0"



WEST ELEVATION - PHASE II
SCALE: 3/8" = 1'-0"

EXTERIOR MATERIAL/FINISH SCHEDULE
NOTE: FINISHES NOTED BELOW ARE REPRESENTATIVE ONLY. FINISHES THAT EXACTLY MATCH EXISTING SHALL BE DERIVED FROM EXISTING.

MARK	MATERIAL	FINISH / COLOR
A	EXISTING STUCCO FINISH	FRATZE PAINT-EN, BROWN PAINT-EN
B	EXISTING BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
C	EXISTING CONC. COLUMN	FRATZE PAINT-EN, BROWN PAINT-EN
D	EXISTING STUCCO COLUMN BASE	FRATZE PAINT-EN, BROWN PAINT-EN
E	EXISTING BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
F	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
G	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
H	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
I	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
J	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
K	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
L	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
M	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
N	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
O	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
P	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
Q	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
R	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
S	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
T	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
U	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
V	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
W	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
X	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
Y	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN
Z	NEW BRICK	FRATZE PAINT-EN, BROWN PAINT-EN

**rober
brown architects**
549 south 48th street • suite 108
tempe • arizona • 85281

This document, including the ideas and designs it contains, is an instrument of professional service provided by Robert Brown Architects, Inc. It is the property of Robert Brown Architects, Inc. and is not to be used or copied in whole or in part, for any other project, without the express written consent of Robert Brown Architects.

brick will be exposed on the Oregon Street side, the 1926 skylights and lead glass windows along Boston Street will be restored, and stucco painted cap along the entire property will be added. The project budget to improve the exterior of the property is estimated at \$435,000.

Staff is recommending that the City purchase a conservation easement from PSCI Investments in an amount not to exceed \$180,000. This Conservation Easement Program provides a mechanism for the City to purchase a conservation easement from a property owner in exchange for funds. In this exchange, the property owner receives funding to renovate the façade of the structure and the City has an assurance that the structure will be maintained in its renovated state for an agreed upon period. In the case of 91 and 95 W. Boston Street, PSCI Investments has agreed to a twenty-year maintenance period.

FINANCIAL IMPLICATIONS: Funding for the proposed Façade Conservation Easement Program is available in Downtown Redevelopment funding (101.1290.6211).

PROPOSED MOTION: Move to authorize the purchase of a façade easement in an amount not to exceed \$180,000 from PSCI Investments, LLC, for the purpose of restoring the façade at 91 and 95 W. Boston Street.

Attachments:

Exhibit "A" Legal Description

Exhibit "B" Scope of Work

Exhibit "C" Vicinity Map

#58

SEP 20 2007

EXHIBIT "A"

Lot 26, Chandler, according to Book 5 of Maps, page 34, records of Maricopa County, Arizona;

Except the East 5.25 feet, thereof.

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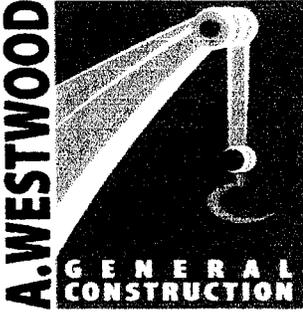
Name: PSCI Investments LLC: Project: Exterior of 91 and 95 West Boston
Business Address: 81 West Boston Street, Chandler, AZ
Contact Name: Peter Sciacca
Phone: 480 517 9777 Fax: 480 517 9888 Email: peter@1sourceinc.com

Project Summary & Scope of Work:

The downtown Chandler façade conservation program is for the exterior work at TWO addresses of 91 and 95 West Boston. This is known to be the very first Post Office as built in the city center in 1926. The building has a beautiful tin roof ceiling. Though the museum does not have any photos of this property, it has rich Chandler history and character.

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Though the commercial contracting bid is estimated at \$373,000, we anticipate other unexpected costs to properly complete the project in addition to money already spent with architects and other soft costs. This is based on real experience and the \$500,000 spent on diSciacca, our property at 81 West Boston.



COMMERCIAL · RESIDENTIAL

LICENSED/BONDED/INSURED

Project: Oregon Steet Arcade Exterior
 Owner: City of Chandler
 Client: PSCI Investment, LLC

Date: August 28, 2007

S.E.C. Boston Street and Oregon Street
 Chandler, AZ

Description of Proposed Work [Scope]:

\$ US DOLLAR AMOUNTS

Description of proposed work per architectural plans drawn by Robert Brown Architects dated 08/15/2007, project 07013.00

1. Remove stucco from four walls and haul away	7,700.00
2. Brick repair on exposed walls	13,200.00
3. Roof repair [water damaged areas]	13,200.00
4. Truss system reinforcement [1926—update]	16,500.00
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14. Paint new storefronts of both 91 and 95 West Boston	8,800.00
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16. New steel framed window treatment for Oregon	9,900.00
17. New window in steel window treatment for Oregon	7,150.00
18. New foam roof system	27,500.00
19. New roof curbing for HVAC system for 91 and 95 West Boston	3,300.00
20. Removal of preexisting electrical panels	3,300.00
21. Installation of new electrical panels for 91 and 95 West Boston	13,200.00
22. New water main from alley	3,300.00
23. New fire water main from alley	8,800.00
24. New sewage line from alley	5,500.00
25. Exterior lighting [front and rear] cosmetic and safety	7,500.00
26. New rear entry doors	4,400.00
27. Project dumpster	1,100.00
28. Project fence	550.00
29. Brick wall with wrought iron fence at rear of property at alleyway	13,200.00
30. General conditions	16,500.00
31. Profit [15%] and Project Overhead/Management	17,170.17
32. Tax	

Subtotal: \$373,002.48

CONTRACT AMOUNT: \$373,002.48

[623] 694-8804 mobile
 [623] 773-0339 office
 [623] 773-0338 fax



Project Site

Vicinity Map

Exhibit C



Project Site

**KiZake and Vivi's Boutique
91 W. Boston St. and
95 W. Boston St.**



Chandler, Arizona
Where Values Make The Difference

#58

SEP 20 2007



Chandler • Arizona
Where Values Make The Difference

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Downtown Redevelopment - Memo DT08-011

DATE: SEPTEMBER 14, 2007

TO: MAYOR AND CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER *WMP*
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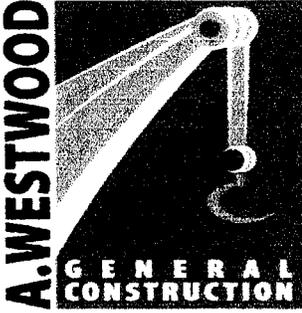
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16. New steel framed window treatment for Oregon	9,900.00
17. New window in steel window treatment for Oregon	7,150.00
18. New foam roof system	27,500.00
19. New roof curbing for HVAC system for 91 and 95 West Boston	3,300.00
20. Removal of preexisting electrical panels	3,300.00
21. Installation of new electrical panels for 91 and 95 West Boston	13,200.00
22. New water main from alley	3,300.00
23. New fire water main from alley	8,800.00
24. New sewage line from alley	5,500.00
25. Exterior lighting [front and rear] cosmetic and safety	7,500.00
26. New rear entry doors	4,400.00
27. Project dumpster	1,100.00
28. Project fence	550.00
29. Brick wall with wrought iron fence at rear of property at alleyway	13,200.00
30. General conditions	16,500.00
31. Profit [15%] and Project Overhead/Management	17,170.17
32. Tax	

Subtotal: \$373,002.48

CONTRACT AMOUNT: \$373,002.48

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Project Site

Vicinity Map

Exhibit C



Project Site

**KiZake and Vivi's Boutique
91 W. Boston St. and
95 W. Boston St.**



Chandler, Arizona
Where Values Make The Difference