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SEP 11 2008

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MEMORANDUM **Planning and Development – CC Memo No. 08-162**

DATE: AUGUST 19, 2008

TO: MAYOR & CITY COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
JEFF KURTZ, ACTING PLANNING & DEVELOPMENT DIRECTOR
DAVID DE LA TORRE, PRINCIPAL PLANNER DDLT

FROM: JASON CRAMPTON, CITY PLANNER JC

SUBJECT: AGREEMENT FOR IN-FILL DEVELOPMENT WITH HABITAT FOR HUMANITY (405 S. DELAWARE STREET)

Request: Approval of an agreement with Habitat for Humanity, authorizing $5,000 as a financial incentive for in-fill development, to be paid upon completion of a single-family owner-occupied residence on an in-fill parcel.

Location: 405 S. Delaware Street

Applicant: Tana Nichols, Habitat for Humanity

RECOMMENDATION

Upon finding consistency with the Chandler General Plan and the Residential In-Fill Program, Staff recommends approval of an agreement between the City of Chandler and Habitat for Humanity.

BACKGROUND

The Residential In-Fill Program was adopted by Council in December, 2001, and subsequently amended in December, 2004 to encourage new construction of owner-occupied single-family dwellings on small parcels located within the northeastern section of the City (Resolution No. 3803, 12/16/04). Initially, the program enabled a qualifying in-fill development to receive $2,500 per dwelling unit to recoup the cost of such items as development fees and other charges paid at the time of taking out building permits. The

2004 amendment increased the award to $5,000/du and offered an additional $5,000/du for the demolition of existing substandard dwelling(s).

This application is one of four submitted by Habitat for Humanity requesting awards for the construction of four single-family homes: two along South Delaware Street, and two along East Kesler Lane. In 2007, Council approved Residential In-fill Agreements to assist in the construction of three new homes (all three were Habitat homes) and the demolition of one existing substandard dwelling. In 2006, the City issued residential in-fill awards for the construction of seven new homes (four of which were Habitat homes) and the demolition of one existing substandard dwelling. Prior to 2006, the City issued $2,500 awards for 85 dwelling units before the 2004 amendment.

Council approved $250,000 in funding for the program for the current fiscal year. In June, Council reallocated $75,000 to fund the Green Building Program, leaving the Residential In-Fill Program with $175,000 for the remainder of this fiscal year.

In order to receive the financial incentive, all requests are subject to approval by Council through an agreement.

DISCUSSION

If approved, the requested financial incentive would be awarded to Habitat for Humanity upon completion of a 1,545 square foot, 3-bedroom, two story single-family home. The home will be constructed on a vacant 6,999 square foot lot located on the east side of Delaware Street, south of Frye Road. The home meets all of the qualification criteria and general requirements as set forth in Section I of the Residential In-Fill Program (parcel size, location, existing infrastructure), as well as the development standards contained in Section III (front yard landscaping, two car garage, etc.).

This project is also the subject of a use permit application before Council on this same agenda (UP08-0033), which contains all of the specific design details.

RECOMMENDED ACTION

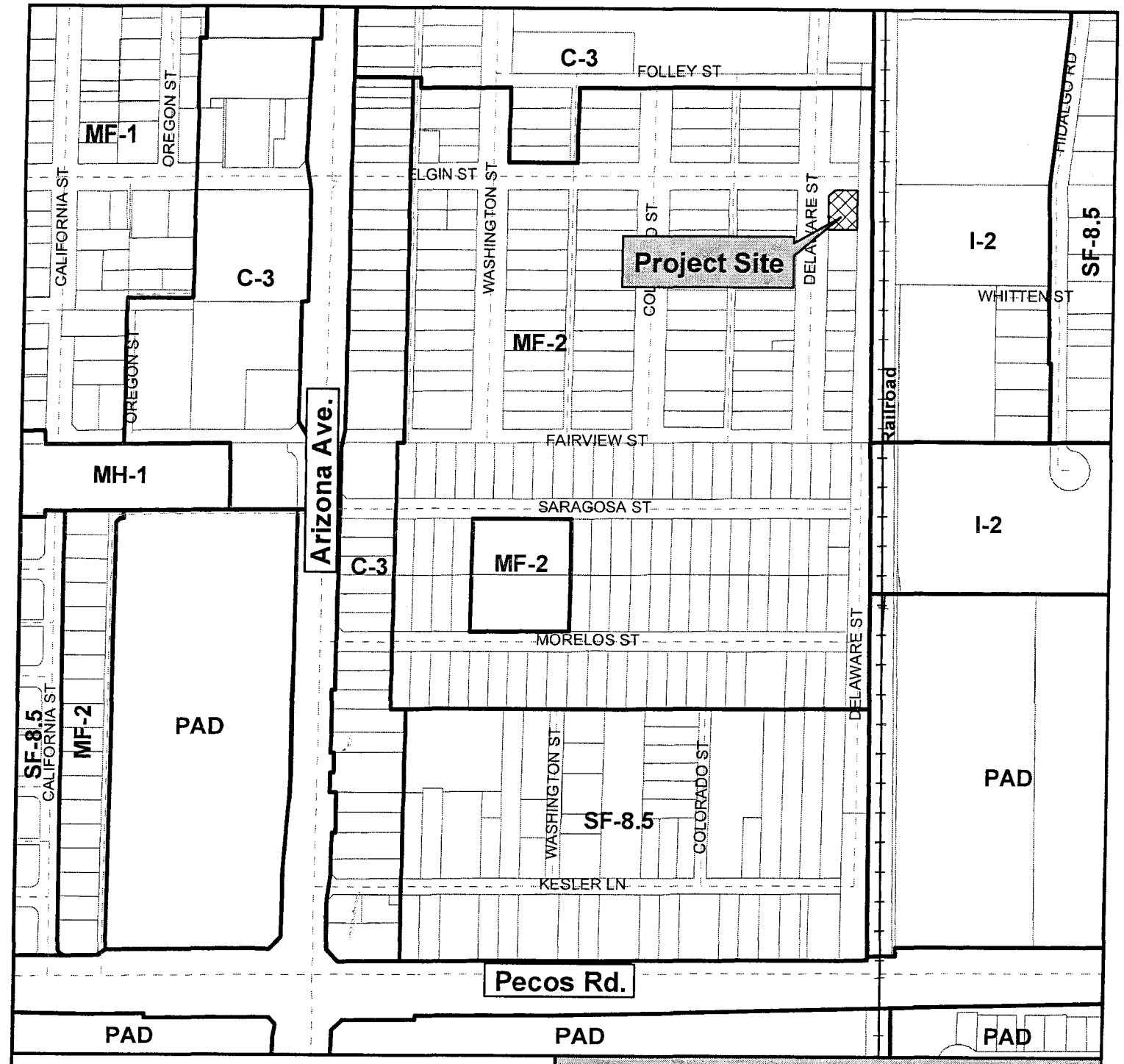
Upon finding consistency with the Chandler General Plan and the Residential In-Fill Program, Staff recommends approval of the agreement between the City of Chandler and Habitat for Humanity.

PROPOSED MOTION

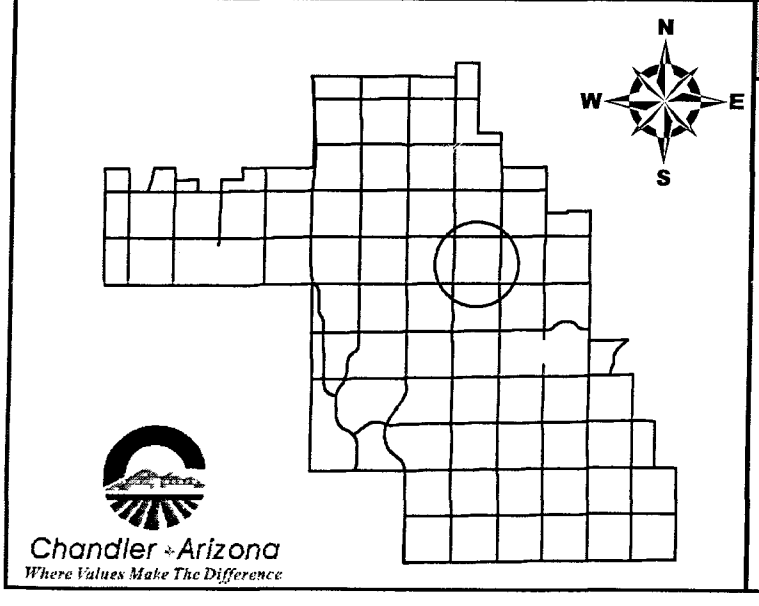
Motion to approve an agreement with Habitat for Humanity, awarding $5,000 as a financial incentive for in-fill development, to be paid upon completion of the proposed single-family home.

Attachments

Vicinity Maps
In-Fill Agreement
Legal Description, Exhibit "A"
Residential In-Fill Program, Exhibit "B" (Development Standards)



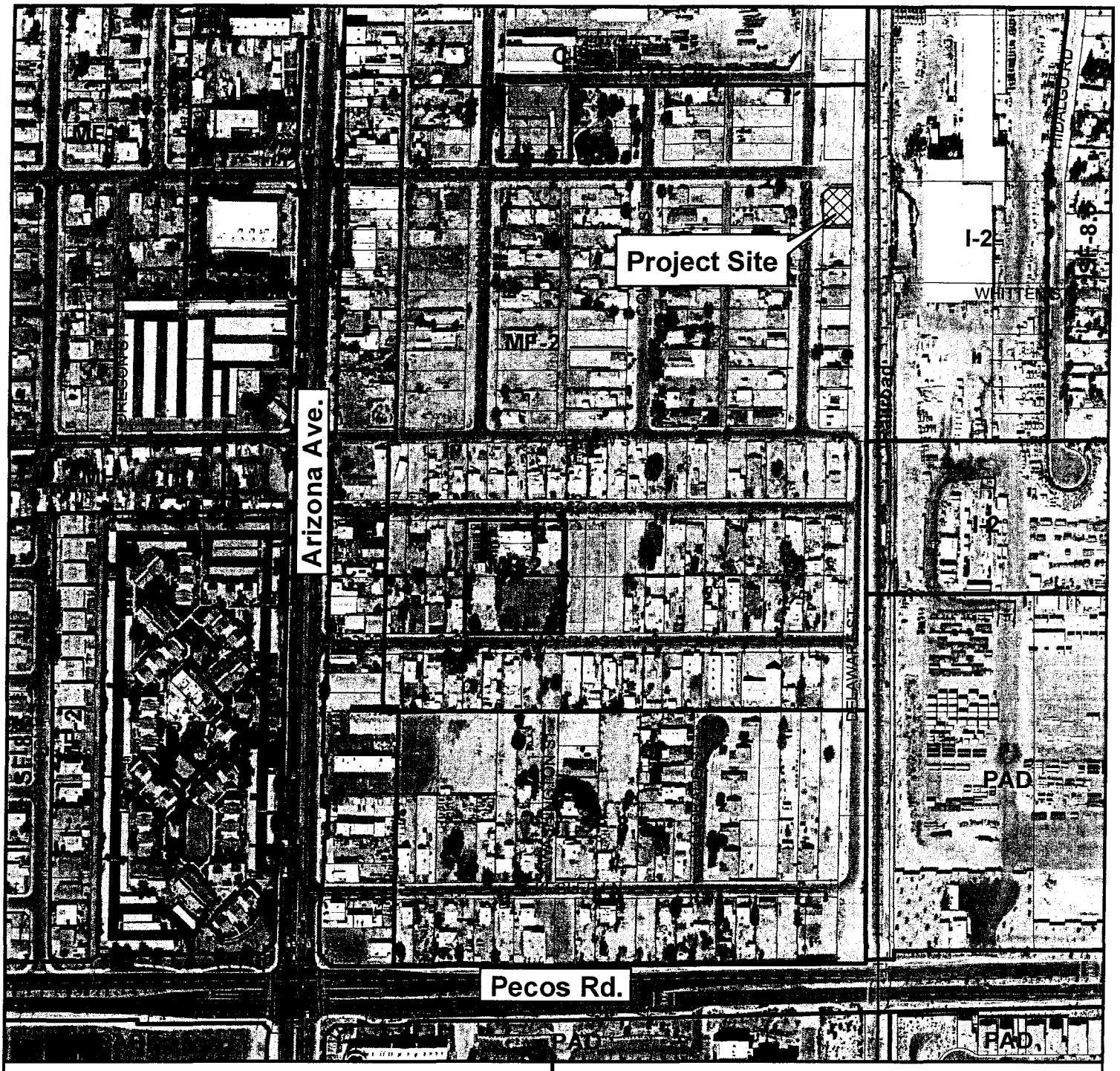
Vicinity Map



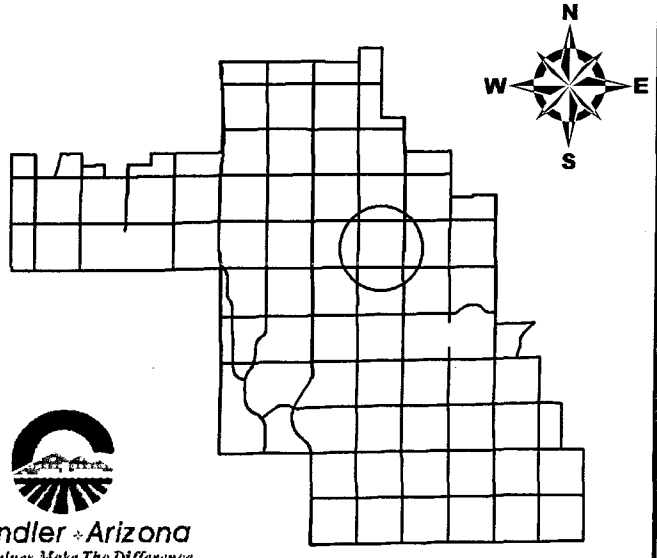
UP08-0033

Habitat for Humanity
Valley of the Sun
405 S. Delaware St.

CITY OF CHANDLER 6/16/2008



Vicinity Map



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UP08-0033

Habitat for Humanity
Valley of the Sun
405 S. Delaware St.

CITY OF CHANDLER 6/16/2008

IN-FILL AGREEMENT

This In-Fill Agreement ("Agreement") is made and is effective as of this _____day of _____, 2008 (the "Effective Date"), by and between the City of Chandler, an Arizona municipal corporation, hereafter designated as "City", and Habitat For Humanity – Valley of the Sun, a(n) nonprofit organization, hereafter designated as "Developer".

RECITALS

A. Developer has purchased, or is in escrow to purchase, that certain real property consisting of approximately 6,999 square feet of land, together with any improvements thereon, and legally described in attached Exhibit "A" (the "Property"). Developer intends to complete a project to rehabilitate and renovate the Property (the "Project") by demolishing and removing any existing dwelling units on the Property and constructing thereon one (1) owner-occupied, single-family dwelling unit, also known as "single-family ownership product", as that term is defined in the City of Chandler's Residential In-fill Program as amended by Resolution No. 3803 on December 16, 2004 (the "In-fill Program").

B. The In-fill Program makes certain city funds available to a developer to offset expenses incurred by the developer in the demolition of substandard dwellings, where the demolition leads to construction of owner-occupied residential units, and in the construction of owner-occupied single-family dwellings, in connection with a project involving a small in-fill parcel that is located within a specified area of Chandler, Arizona, provided that the project meets all of specified qualification criteria, general requirements, and development standards for the In-fill Program. Developer desires to receive funds available under the In-fill Program and has submitted to City the written "Statement of Intent" required under Section I of the In-fill Program.

C. The Property is located at 405 S. Delaware Street, Chandler, Arizona, and is within the area that is subject to the In-fill Program. The City Planning Director has reviewed the "Statement of Intent" and has determined that Developer qualifies for funding for the Project pursuant to the In-fill Program.

AGREEMENT

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

1. Developer's Obligation. Within two (2) years from the Effective Date, Developer shall commence construction of one (1) dwelling unit(s) on the Property, and,

if applicable, shall have completed the demolition and removal of zero (0) existing substandard dwelling unit(s) on the Property.

2. Compliance with Development Standards, Permitting Requirements, and Payment of Fees. In constructing the new dwelling unit(s) and in doing any demolition and removal of existing substandard dwelling unit(s), Developer shall comply with all City development standards and requirements, including, but not limited to, all applicable zoning conditions and City building/fire codes. Developer shall make timely payment of all applicable development fees, impact fees, plan review/permit fees, buy-ins, and all other fees applicable to the Project in accordance with requirements of City's local codes and regulations.

3. Compliance with In-fill Program Standards. In constructing the new dwelling unit(s), Developer shall also comply with the specific standards set forth in Section III of the In-fill Program and which are also attached hereto as Exhibit "B" (the "in-fill standards"). It is understood and agreed by the parties to this Agreement that the in-fill standards are not in conflict with and generally exceed the minimum standards of the City's local codes and regulations. In the event that Developer claims that an in-fill standard conflicts with another City development or zoning standard applicable to the Project, Developer shall bring such claim to the attention of Planning Director, whose determination of the matter shall be final and conclusive for purpose of funding to be provided under this Agreement.

4. Completion of Construction. Developer shall complete construction of the Project within a reasonable time after properly commencing construction. The Project is deemed to be complete when Developer obtains final approval, certificate of occupancy, or such other written project clearance that allows for residential occupancy of the dwelling unit(s). If the Project is completed within 270 days following commencement of construction, it is conclusively deemed to have been completed within a reasonable time. If the Project is approved by City for phased construction, then each phase will be deemed completed at such time as Developer obtains the necessary written clearance that allows for residential occupancy of all of the dwelling unit(s) within that particular phase.

5. City's Obligation. City shall pay to Developer from funds encumbered for such purpose pursuant to paragraph 6 below, an amount equal to five thousand dollars ($5000) per dwelling unit completed and cleared for residential occupancy. The maximum amount available to developer for construction of the dwelling unit(s) under this Agreement is $5,000. Where applicable, City shall also pay to Developer from the funds encumbered for such purpose pursuant to paragraph 6 below, an amount equal to five thousand dollars ($5000) per existing substandard dwelling unit demolished and removed from the Property, *provided, however*, that Developer shall not be entitled to receipt of any funds for demolition and removal purposes unless and until there is completion of construction and clearance for occupancy of the new dwelling unit(s) on the Property. The maximum amount available to developer for demolition and removal of the substandard dwelling unit(s) under this Agreement is $0.

6. Encumbrance of Funds. On the Effective Date, or if approval of a zoning or rezoning ordinance affecting the Property is necessary for the Project to proceed, then on the effective date of the ordinance as approved by the Chandler City Council, City, acting through its Planning Director or designee, shall cause funds in a sum equal to the total amount available to Developer under this Agreement to be set aside and otherwise encumbered so as to be available to Developer when the Developer's obligations under this Agreement have been satisfied.

7. Request for Financial Award Upon Completion. Within thirty (30) days after receiving clearance by City for occupancy of one (1) or more dwelling units on the Property, Developer shall submit a written request to City's Planning Director, or designee, requesting the payment of funds due to Developer under this Agreement for the dwelling units that have been cleared for occupancy. No particular form of written request is required, *but* the request must identify the address of each completed dwelling unit for which funds are requested.

8. Release for Payment. Within thirty (30) days after receipt of Developer's written request for funds, the Planning Director or designee shall verify that clearance(s) for the unit(s) has/have been issued with no remaining issues regarding code compliance, project completion, or other term of this Agreement, and shall cause to be released to Developer a city check or warrant made payable to Developer in the amount due under this Agreement.

9. Failure to Commence Construction Within Two (2) Years; Time Extension. If construction of the new dwelling unit(s) has not commenced within two (2) years from the Effective Date, this Agreement shall be deemed to have expired automatically without further notice to either party, and City, acting through the Planning Director or designee, may cause any funds encumbered or set aside pursuant to paragraph 6 above to be unencumbered and made available for other applicable projects. This time period may be extended and the extension shall be memorialized in a written addendum to this Agreement executed by the parties, but only upon approval of the Chandler City Council. Developer may submit a written request for an extension of the time period *prior* to the expiration of the two-year period, and in such event, the Planning Director shall promptly present the request to the Chandler City Council for its approval and shall automatically extend the original or current time period for sixty (60) days beyond the normal expiration date in order for the matter to be acted upon by the Chandler City Council.

10. Notices. All notices and other communications given hereunder shall be in writing and shall be deemed given upon personal delivery by hand to the authorized representative of each of the respective parties as identified below or three (3) days after being sent by certified mail, return receipt requested, postage prepaid, addressed to the respective representative of each party at the address stated below:

To Developer: Tana Nichols
Habitat For Humanity – Valley of the Sun
115 E. Watkins St.
Phoenix, Arizona 85004

To City: Jeff Kurtz
Acting Planning & Development Director
215 E. Buffalo St.
P.O. Box 4008, Mail Stop 401
Chandler, Arizona 85244-4008

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

11. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Arizona. There are no understandings or agreements except as expressly stated herein.

12. Waiver. No waiver by either party of a breach of any terms or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same, or any other term or condition herein contained.

13. Severability. In the event that any phrase, clause, sentence, paragraph, section, article, or portion of this Agreement shall become illegal, null or void against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the fullest extent permissible by law, except if the remaining portions of the Agreement do not provide one or both of the parties with the essential consideration for entering into this Agreement.

14. Exhibits. All exhibits attached hereto are incorporated by reference as though fully set forth herein.

15. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof, and all prior and contemporaneous agreements, representations, negotiations and understandings of the parties hereto, oral or written, are hereby superceded and merged herein.

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

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

CITY OF CHANDLER, an Arizona municipal corporation

ATTEST:

By: _____

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney GAB

HABITAT FOR HUMANITY – VALLEY OF THE SUN, a nonprofit organization

By: Roger G. Schwiegel, President

Its: President

EXHIBIT "A"

LEGAL DESCRIPTION

405 SOUTH DELAWARE STREET
CHANDLER, ARIZONA 85225

LOT 1 OF A MINOR LAND DIVISION OF BLOCK B, DOBSON ADDITION, ACCORDING TO BOOK 897 OF MAPS, PAGE 50, RECORDS OF MARICOPA COUNTY, ARIZONA.

Exhibit "B"

(Excerpt from) RESIDENTIAL IN-FILL PROGRAM

Section III. DEVELOPMENT STANDARDS

In addition to meeting the applicable standards and requirements set forth in City development codes, in-fill development projects receiving the financial awards provided in Section II of this program, shall also comply with each of the following development standards as applicable:

(a) To reduce the financial obligations of a homeowners' association, in the event that a developer wishes to form one, the City encourages storm water retention basins to be located, where practical and feasible, adjacent to a major arterial street so as to enable, at the City's election, dedication to the City for maintenance, unless such capacity is already provided for within an existing basin[8].

(b) For the purposes of determining project eligibility under this program, all streets and drives within the residential development shall be dedicated to the City for maintenance by the City. Private streets, common areas, and tracts for private purposes other than storm water retention, shall be prohibited within subdivisions featuring detached units, and minimized to the extent practical and feasible within subdivisions featuring attached units. Gated communities featuring attached or detached units shall not be considered eligible for any cash awards under this program.

(c) Each single-family ownership product shall include, as standard, all of the following features (condominium development shall be exempt from the requirements of items #1-4):

1. Front yard landscaping consisting of at least two (2) trees 15 gallon in size or larger, plus six (6) shrubs 5 gallon in size or larger, plus ground cover, all being drought tolerant material, with automatic underground irrigation
2. Two (2) parking spaces within a garage enclosure, attached or detached, and architecturally integrated.
3. One hundred twenty (120) sq. ft. enclosed storage area under roof, attached or detached to the dwelling unit (unless such space is available in the garage without displacing a parking space).
4. Rear yard fully enclosed by a six (6) ft. high masonry wall, with solid gates as necessary.
5. Copper electrical circuitry throughout the dwelling.

6. Insulation values to achieve a minimum R-19 exterior wall rating and R-30 roof rating, certified by a local utility provider.
7. Roofing materials certified by the manufacturer to achieve a twenty-five (25) year life or greater.

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[8]*The City shall not be considered obligated to accept any storm water retention basin for maintenance, and the costs of maintaining such basin or other common area privately if distributed over too small a number of lots, may constitute basis for the City to disapprove a developer's application for the cash awards.*