

**SYSTEM DEVELOPMENT FEE CREDIT AGREEMENT
(Arterial Streets)**

This System Development Fee Credit Agreement ("Agreement") is entered into as of this ___ day of _____, 20__ (the "Effective Date"), by and between the City of Chandler, an Arizona municipal corporation ("City"), and _____, an _____ ("Developer"). City and Developer may be referred to in this Agreement individually as a "Party" and collectively as the "Parties".

RECITALS

A. Developer owns or controls certain real property that is (1) comprised of a contiguous land area consisting of approximately ___ gross acres linked by a unified plan of development, (2) located at _____ in Chandler, Arizona, (3) legally described and depicted in Exhibit A to this Agreement, and (4) on which Developer plans to construct a development for residential retail/commercial industrial/warehouse use (the "Subject Development").

B. Prior to obtaining a building permit from City for construction of the Development, Developer is required to pay certain system development fees established by City for the cost of providing Necessary Public Services to the Subject Development. One such category of Necessary Public Services is Street Facilities, for which City assesses an arterial street system development fee (the "Development Fee").

C. The zoning and/or other development standards applicable to the Subject Development require Developer to provide certain right-of-way dedications and offsite improvements for public roadway sufficient to serve the Subject Development as constructed. Such dedications and improvements constitute one or more Capital Facilities for which Developer seeks a Credit under Chandler City Code Section 38-12.

D. Developer and City must enter into a Credit Agreement before City can allocate and/or issue a Credit against the Development Fee.

NOW, THEREFORE, in consideration of the above Recitals, the mutual promises contained in this Agreement, and other good and valuable consideration the receipt, adequacy, and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Defined Terms. All capitalized terms used in this Agreement and not specifically defined shall have the same meanings given to such terms in A.R.S. § 9-463.05(T) or in Chandler City Code Section 38-3. In the event of any conflict in meaning, the definition provided in state statute shall control.

2. Capital Facilities. The Capital Facilities provided or to be provided by Developer in connection with the Subject Development that are eligible for Credit Allocation under this Agreement are:

- _____.

3. Date of Acceptance. If Developer has completed construction of the Capital Facilities, the date of City's final acceptance is: _____.

4. Location. Developer shall construct the Capital Facilities at the location depicted in Exhibit A.

5. Total Credit. The total amount of the Credit allocated to the Subject Development is \$ _____ (the "Total Credit"). City and Developer agree that City's determination of the Total Credit is final and is based on the calculations shown in the table below:

[insert table showing capital showing cost of capital facilities]

CREDITS FOR PLANNED DEVELOPMENT
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[insert table showing credit calculation]

6. Equivalent Demand Units. City and Developer agree that the estimated number of Equivalent Demand Units ("EDU's") to be served within the Subject Development is _____. The Credit to be applied to the Development Fee for the Subject Development may not exceed the amount of the Development Fee applicable to the Subject Development, or \$3,869.00 per unit.

7. Method of Distribution. The Total Credit shall be allocated to the Subject Development as of the Effective Date of this Agreement. The Credit issued shall be equally distributed within the Subject Development based upon a combination of land use, building square footage, and PM Peak Trip factors, in accordance with the following:

a. Developer is responsible for payment of all System Development Fees prior to City's Final Acceptance of the Capital Facilities.

b. No Credit Issuance shall occur prior to City's Final Acceptance of the Capital Facilities. City shall issue a refund for Credits applicable to permits pulled prior to the date of Final Acceptance, after making a final verification of Credits.

c. System Development Fees charged for permits issued after Final Acceptance of the Capital Facilities will be offset by the amount of applicable Credit per unit/square foot.

8. Reallocation. Developer may request a reallocation of Credit from or within the Subject Development subject to the following:

a. A written amendment to this Agreement executed by the Parties or their legal successors in interest as well as the current owner of the Subject Development; and

b. The reallocation shall not change the value of any Credit already issued for the Subject Development.

9. Non-Contiguous Reallocation. Developer may request a reallocation of Credit to a parcel that is non-contiguous to the Subject Development subject to the following:

a. A written amendment to this Agreement executed by the Parties or their legal successors in interest, the current owner of the Subject Development, and the entity that owns the non-contiguous parcel The entity that executed the original of this Agreement with Chandler, or the entity's legal successor in interest; the entity that currently owns and/or controls the Subject Development; and the entity that owns and/or controls the non-contiguous parcel;

b. The reallocation shall not change the value of any Credit already issued for the Subject Development;

c. The non-contiguous parcel is in the same Service Area;

d. The non-contiguous parcel receives a Necessary Public Service from the Capital Facilities;

e. The amendment specifically states the value of the Credits to be allocated to each parcel and/or EDU, or establishes a mechanism for future determination of the Credit values;

f. The reallocation does not involve the transfer of Credits to or from any property subject to a development agreement; and

g. City must obtain ownership of the Capital Facilities subsequent to August 1, 2014.

10. Timing and Multiple Entities.

a. If Developer has acquired ownership and/or control of the Subject Development prior to execution of this Agreement, but after the Developer's predecessor-in-interest has completed construction of the Capital Facilities, then the Credit resulting from the Capital Facilities will only be allocated to the Subject Development if the Developer's predecessor-in-interest legally assigns such rights and responsibilities to the Developer.

b. If multiple entities jointly complete construction of the Capital Facilities, both entities must execute this Agreement, or any amendment to this Agreement, and any request for the allocation of Credit within the Subject Development must be made jointly by the entities that provided the Capital Facilities.

11. Notices.

a. Any notice or other communication required under this Agreement shall be in writing and delivered by overnight courier, or by U.S. registered or certified mail, return receipt requested, postage prepaid, to the addresses set out below or at such other addresses as are specified by written notice delivered in accordance with this Paragraph:

Developer:

City: City of Chandler
Development Services
Mail Stop 410, P.O. Box 4008
Chandler, AZ 85244-4008

b. Developer shall provide written notice to City of any change in address for service of notice or other communications under this Agreement, and any failure to do so shall result in the forfeiture of Developer's right to Credit under this Agreement.

c. Any notice or other communication mailed as provided in this Paragraph shall be deemed effectively given or received on the date of delivery, if delivered by hand or by overnight courier, or otherwise on the fifth business day following the postmark date of such notice or other communication.

12. Amendments. This Agreement may be amended only in a writing signed by the Parties. In addition, amendments for reallocation of Credits must satisfy all of the conditions set forth in either Paragraph 7 or 8, as applicable.

13. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors and assigns.

14. Construction. This Agreement shall be construed and interpreted under, and governed and enforced according to the laws of the State of Arizona. This Agreement is subject to cancellation for conflict of interest under A.R.S. § 38-511.

15. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original, and all of which together shall constitute one and the same instrument.

16. Authorized Signatures. The City Engineer or designee is authorized to execute this Agreement under Chandler City Code Section 38-12. The person signing this Agreement on behalf of Developer warrants personally and on behalf of Developer that he or she is authorized to bind Developer to the terms of this Agreement.

[SIGNATURES ON FOLLOWING PAGES]

CITY:

City of Chandler, an Arizona municipal corporation

By: _____

Louis Kneip, P.E.

Development Engineering Manager

Date signed: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

Exhibit "A"

Legal Description and Map

[insert or attach legal description of subdivision and map showing location of capital facilities]