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REDEVELOPMENT AND PURCHASE AGREEMENT

City Contract No **149707--0**

THIS REDEVELOPMENT AND PURCHASE AGREEMENT

(“**Agreement**”) is entered into by and between the CITY OF PHOENIX, ARIZONA (“**City**”) and BERGER HOLDINGS, LLC, an Arizona limited liability company, (“**Developer**”). Developer and City are sometimes referred to herein as the “**Parties**” or individually as a “**Party**.” The City and the Developer agree as follows:

ARTICLE I. SUBJECT OF AGREEMENT

§ 101. Purpose of Agreement

The purpose of this Agreement is to put into effect the Downtown Area Redevelopment and Improvement Plan for a redevelopment project by providing for the disposition and redevelopment of certain real property and improvements further described in §103 and referred to herein as the “**Site**.” Pursuant to a Request for Proposals (RFP-CED17-CAP) issued by the City to solicit proposals specifically for the City-owned vacant parcel located on the south east corner of Central Avenue and Adams Street (30 N. 1st Street), Developer responded and presented a proposal dated January 18, 2018, (the “**Proposal**”) which was deemed responsive and ultimately approved by the City on June 20, 2018 pursuant to Ordinance S-44791 (the “**Approved Ordinance**”). The disposition and redevelopment of the Site pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of Title 36, Chapter 12, Article 3, Arizona Revised Statutes, relating to Redevelopment Areas and applicable federal, state, and local laws and requirements. This Agreement is a development agreement being entered into by the Parties pursuant to Arizona Revised Statutes § 9-500.05.

This statement of purpose is a description of the intentions of the Parties regarding the disposition and redevelopment of the Site, but, except to the extent that

certain defined terms are contained herein, it is not intended to enlarge, limit or restrict the respective rights and obligations of the Parties as set forth in this Agreement.

§ 102. Redevelopment Plan

This Agreement is subject to the provisions of, and is made pursuant to, the Downtown Area Redevelopment and Improvement Plan, approved on March 13, 1979 by the City Council of the City of Phoenix by Resolution No. 15143, as amended.

§ 103. The Site and the Project

The Site is comprised of one single parcel (APN 112-28-131) totaling approximately 26,000 square feet of land in Phoenix, Arizona, Maricopa County. The Site is within the Downtown Redevelopment Area in Phoenix, Maricopa County, Arizona. The Site is legally described in **Exhibit "A,"** attached hereto, and depicted in the Site Map, attached hereto as **Exhibit "B."** The Site is zoned Business Core within the Downtown Zoning Code.

In accordance with the terms of this Agreement and the Proposal, the Developer or its designated Affiliate (as defined herein) shall construct on the Site, at its sole cost, the project, which shall include an approximately 200,000 square foot ("SF") mixed-use tower consisting of 50,000 SF of office, flex and commercial space, 200 hotel rooms, 20 hospitality suites, and 30 structured parking spaces. This project will follow and implement the recommendations of the Adams Street Activation Study, as referenced in the RFP (collectively, the "**Project**"). All Project descriptions, square footages, and unit counts are approximate and subject to modification and approval by CEDD as provided herein. Developer will design, construct and maintain the Project consistently with the Proposal and this Agreement. Developer shall comply with any reasonable requests from the City concerning compliance with the requirements of this § 103.

§ 104. Parties to the Agreement

§ 104.1 The City

The City is a municipal corporation of the State of Arizona, a public body corporate, exercising governmental functions and powers pursuant to the Slum Clearance and Redevelopment Act of the State of Arizona. The execution of this Agreement and any other documents required to implement the provisions of this Agreement was authorized by the Approved Ordinance, passed by the Phoenix City Council June 20, 2018 ("**the Authorization Date**").

The principal office of the City is located at 200 West Washington Street, Phoenix, Arizona, 85003-1611.

City, as used in this Agreement, includes the City of Phoenix, together with the Community and Economic Development Department (“CEDD”), and any assignee or delegate of or successor to their rights, powers and responsibilities under applicable law.

The obligations, approvals and other actions undertaken by the City pursuant this Agreement are the exercise of the City’s redevelopment powers for the purpose of compliance with the redevelopment considerations expressed in this Agreement, and not as a municipality exercising regulatory powers. The Developer hereunder still must comply with land use regulations, codes and laws affecting the acquisition, ownership, use, improvement and development of property, and the vacation and abandonment of public rights-of-way and easements. Nothing in this Agreement constitutes an exemption or grant of a variance from applicable codes and laws.

§ 104.2 The Developer

Developer is a limited liability company organized under the laws of the State of Arizona. The principal office of the Developer is located at 7001 N Scottsdale Rd. Suite 2005, Scottsdale, Arizona 85253.

Notwithstanding any other provisions hereof, all of the terms, covenants, and conditions of this Agreement shall be binding on and shall inure to the benefit of the Developer and the permitted successors and assigns of the Developer. Wherever the term “Developer” is used herein, such term shall include any such permitted successors and assigns.

§ 104.3 Prohibition Against Changes in Ownership, Management and Control of Developer

(a) The Developer represents and agrees as of the date of this Agreement, and reaffirms that at Closing, the Site will be used for the purpose of redevelopment as contemplated under this Agreement and not for speculation in landholding. The Developer further recognizes, as of the date of this Agreement and reaffirms at Closing, that the qualifications and identity of the Developer, and its members, managers, principles and Affiliates, are of particular concern to the City, in view of:

- (i) the importance of the disposition and redevelopment of the Site to the general welfare of the community;
- (ii) the public aids that have been made available by law and by the government for the purpose of making such disposition and redevelopment possible; and

- (iii) the fact that a significant change in ownership or control of the Developer or of a substantial part thereof, in a manner not permitted under this Agreement, is for practical purposes a transfer or disposition.

The Developer further recognizes that it is because of Developer's qualifications and identity that City is entering into this Agreement with Developer. No voluntary or involuntary successor-in-interest of Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

(b) Within ten (10) business days, the Developer shall notify the City of any and all material changes or proposed changes in the ownership and control of Developer. Upon receipt of a written request from the City, Developer shall provide City with a copy of any contract, agreement, document and related papers which directly or indirectly conveys, assigns or reflects a material change in management control of Developer, whether or not permitted hereunder. For purposes of this section, a change is "material" if it results in a change in control of the Developer, or if it results in a change of fifty-one percent (51%) or more of the outstanding voting securities or ownership interests of the Developer. Except as provided herein, this Agreement may be terminated by the City if there is any material change (voluntary or involuntary) in the ownership or control of the Developer that has not been approved in writing by the City at the time of such change, which approval shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, this Agreement shall not be subject to termination for any permitted assignment or transfer of Developer's interest in this Agreement for the purpose of obtaining financing for the Project or as otherwise permitted in § 105 of this Agreement.

(c) The Developer agrees to and shall indemnify and hold City harmless from or against those claims, demands and obligations asserted by or from any party who acquires a parcel or any portion of the Site or Developer's interest in violation of this § 104.3 and who thereafter claims a right, interest or ownership to this Agreement. Without limiting the foregoing, any transfer, conveyance or assignment of an interest in Developer, the Project or this Agreement in violation of the provisions of this § 104.3 shall be void, of no force or effect, and shall vest no rights in the purported transferee or assignee.

§ 104.4 Independent Contractor

Developer is an independent contractor in the performance of all activities, functions, duties and obligations pursuant to this Agreement. Developer and City are not and shall not be considered as joint venturers, partners or agents of each other. Developer's employees, agents and subcontractors shall not be considered as officers,

employees or agents of City. City and Developer hereby agree not to represent to anyone that they are agents of one another or have authority to act on behalf of one another.

§ 105. Assignments of Agreement

§ 105.1 Prohibition Against Assignments of Agreement

Developer shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any rights herein. Notwithstanding anything in this Agreement to the contrary, the prohibitions contained in the preceding sentence and/or in § 104.3 above and/or elsewhere in this Agreement (collectively, the “**Assignment Prohibitions**”) shall not be applicable to transfers (a) as may be approved by the City in its reasonable discretion, or (b) from Developer to any one or more Affiliates of Developer. As used in this Agreement, an “**Affiliate**” shall mean any person or entity that directly or indirectly controls or is controlled by or is under common control with another person or entity. For the purposes of this definition, (i) “control” (including, with correlative meaning, the terms “controlling,” “controlled by” and “under common control”), as applied to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person or entity, whether through the ownership of voting securities, by contract or otherwise, and (ii) “entity” means and includes corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts or other organizations, whether or not legal entities.

Notwithstanding the prohibitions and termination provisions in § 104.3, this § 105.1, or elsewhere in this Agreement, this Agreement shall not be subject to termination as a result of:

- (i) any transfer relating to the Project where, after completion of the transfer, control of the Project, and beneficial ownership of not less than fifty percent (50%) of the total ownership interest, remains in Developer or an Affiliate of Developer;
- (ii) a pledge, assignment, mortgage, deed of trust, collateral assignment, encumbrances, agreement for sale or similar financing or refinancing transaction to any lender which provides acquisition, construction, permanent, working capital, tenant improvement or other financing, directly or indirectly, to Developer for all or any part of the Site, or the exercise of remedies by any lender;
- (iii) a transfer to a successor in interest of Developer with respect to all or part of the Project, if (a) Developer remains responsible for the

performance of its obligations under this Agreement; (b) if the transfer does not result in a novation; (c) is accompanied by express written assumption by such successor of Developer's rights and obligations under this Agreement as to the Project or portion of the Project to which the transfer relates; and (d) the Developer remains in control through a management agreement, joint venture (or similar) agreement or otherwise through the completion of the Project;

- (iv) A transfer by sale or lease of a residential, office, hotel, store/retail, parking space(s), garage facility, or condominium unit within the Project to, or for the beneficial use of a resident, owner, or user of such unit; or
- (v) Any ordinary course of business lease of all or part of the Project, including, without limitation, a lease of a residential unit, retail or restaurant facility, hotel room or banquet facility, office, garage facility or parking space(s);

Furthermore, the Assignment Prohibitions shall not be deemed to prevent the granting of easements or permits to facilitate the development of one or more phases of the Project. The Assignment Prohibitions shall not prohibit the granting of any security and/or investor ownership interests in Developer's interest in this Agreement or the Site for financing all or any portion of the redevelopment of the Project.

Any proposed transferee, by recordable instrument in writing reasonably satisfactory to the City, for itself and its successors and assigns, and for the benefit of the City, shall expressly assume all of the obligations of the Developer under this Agreement with respect to the Site (or portion thereof) so conveyed, and shall agree to be subject to all the conditions and restrictions to which the Developer is subject with respect to the Site (or portion thereof) so conveyed. Subject to the provisions herein, Developer shall, upon written notice from the City, submit to the City for review as to consistency with this Agreement all instruments and other legal documents proposed to effectuate any such transfer, and the City shall approve (not to be unreasonably withheld, conditioned, or delayed) or disapprove such submittal(s). If disapproved, the City shall issue a written notice to Developer setting forth, in reasonable detail, the basis for any disapproval within thirty (30) days after submission.

In the absence of specific written agreement by the City, no such transfer, assignment or approval by the City shall be deemed to relieve the Developer or any other party from any obligations under this Agreement until Construction Completion (as defined in § 301.3 of this Agreement) has been achieved

§ 105.2 Permitted Assignment of Agreement

The City hereby approves the assignment of this Agreement to an entity to be formed in which Developer, and Sunbelt Holdings or its designee, are members; and in which Developer holds at least fifty percent (50%) of the ownership interest. Developer shall deliver notice to City of any such assignment within ten (10) days, along with a copy of a recordable instrument reasonable satisfactory to the City in which the assignee assumes the obligations of the Developer under this Agreement with respect to the Site, and in which the assignee shall agree to be subject to all the conditions and restrictions to which the Developer is subject with respect to the Site. The City agrees that such an assignment shall not be subject to further approval as provided in § 105.1 of this Agreement.

§ 106. Opening of Escrow

The Parties shall open escrow within ten (10) days of the Effective Date with a mutually agreed to title insurance company (the “**Escrow Agent**”). The Parties shall provide a copy of this Agreement to the Escrow Agent (“**Opening of Escrow**”), which constitutes joint escrow instructions of City and Developer as to matters set forth herein pertaining to Escrow Agent. Upon the Opening of Escrow, the “**Escrow Period**” shall commence.

§ 107. Title Insurance Matters

Developer shall obtain, at its own expense, an owner’s commitment for title insurance for the Parcels comprising the Site (collectively, the “**Title Commitment**”). The City is under no commitment to cure any exceptions to title contained in the Title Commitment because Developer is acquiring the Site in “as is” condition. Notwithstanding the foregoing to the contrary, the City may cooperate to cure any title exceptions contained in the commitment that impair the Developer’s right or ability to construct and fully develop the Project. Promptly after the Opening of Escrow and Developer’s receipt of the Title Commitment, Developer may, at Developer’s expense, obtain a current ALTA/ACSM land title survey for the Real Property (the “**Survey**”).

§ 108. Purchase Price and Special Warranty Deed

The purchase price for the Site is \$2,800,000 (the “**Purchase Price**”), payable by Buyer to the City as follows:

- (i) Buyer’s \$25,000.00 payment submitted with the Proposal (the “**Deposit**”), which shall be nonrefundable to Developer upon the signing of this Agreement; and

- (ii) On the Closing Date, Buyer will deposit with Escrow Agent the sum of \$2,775,000.00.

When the City conveys the Site pursuant to the terms of this Agreement, it will do so through the Escrow Agent by submitting a form of deed in the form attached and incorporated as **Exhibit C ("Special Warranty Deed")**. Upon recording of the Special Warranty Deed, the Escrow Agent shall pay to the City the Purchase Price. To the extent that it is legally able to do so, the City agrees to cooperate with Developer in accommodating reasonable requests of lenders or equity investors in the Project as may be necessary in connection with this Escrow, including but not limited to assigning the Agreement to a lender, a joint venture, or single asset entity, subject to the requirements of §§ 104.3 and 105.

ARTICLE II. PRE-CONSTRUCTION OF THE SITE

§ 201. Representations

§ 201.1 The City represents and covenants that:

- (a) The City has the right, power and authority to demise the Site to the Developer.
- (b) The execution, delivery and consummation of this Agreement by the City is not prohibited by and does not conflict with any other agreements or instruments to which the City is a party or is otherwise subject.
- (c) The City has full power and authority, including municipal, to enter into this Agreement; the execution, delivery, and consummation of this Agreement by the City have been duly authorized by all necessary municipal action.
- (d) Between the date of this Agreement and the Closing Date, the City shall not (i) create or allow to exist any liens or encumbrances on the Site; provided that the foregoing shall not apply to any liens and encumbrances already in place as of the date of this Agreement, or to the lien of real property taxes, accrued but not yet payable, or (ii) sell, mortgage, pledge, convey, assign, transfer, grant an option to purchase or otherwise transfer or dispose of a legal or beneficial interest in the Site.
- (e) Between the date of this Agreement and the Closing Date, the City shall not take any action that could have a material and adverse effect on (i) the physical condition, configuration, accessibility, or utility of the Site, or (ii) the ability of the City to consummate the transactions contemplated for the Closing Date.

§ 201.2 The Developer represents and covenants that:

(a) Developer is a limited liability company, duly formed and validly existing under the laws of the State of Arizona. The Developer has full power and authority to enter into this Agreement, and the execution, delivery, and consummation of this Agreement by the Developer have been duly authorized.

(b) The execution, delivery and consummation of this Agreement by the Developer is not prohibited by and does not conflict with any other agreements or instruments to which the Developer is a party or is otherwise subject.

(c) Developer has received no notice as of the date of this Agreement asserting any noncompliance in any material respect by the Developer with applicable statutes, rules and regulations of the United States of America, the State of Arizona, the City, or of any other state, municipality or agency having jurisdiction over and with respect to the transactions contemplated in and by this Agreement, and the Developer is not in default with respect to any judgment, order, injunction, or decree of any court, administrative agency, or other governmental authority in any respect material to the transactions contemplated in and by this Agreement.

(d) The City is making no representations concerning the condition of title to the Site. Therefore, Developer shall have the opportunity after signing this Agreement and during the Right of Entry Period defined in § 202 to examine the condition of title to the Site and make its own determination as to whether the Site is acceptable for all purposes contemplated or intended by this Agreement.

(e) Upon signing this Agreement, Developer shall immediately commence any and all due diligence reports and studies as Developer may deem necessary or appropriate for all or portions of the Site, which due diligence reports and studies may include, without limitation, an ALTA/ACSM survey, a soils report, a Phase I Environmental Site Assessment and/or other environmental review, and such other reports and inspections.

(f) Developer shall prepare a preliminary site plan, final plat and/or related documents to be processed by City at Developer's cost. Prior to submitting the construction documents to the City's Planning and Development Department for approval, Developer shall submit copies of those documents to CEDD for approval, which approval shall not be unreasonably withheld, conditioned, delayed.

(g) The proposed number of structured parking spaces described in § 103 is adequate for the Project, and City shall not be required to assist Developer to address future off-Site parking for the Project.

§ 202. Right of Entry

During the Escrow Period, Developer and/or its agents shall have the right to enter upon the Site (or any portion thereof) for the purpose of inspecting the Site (or any portion thereof) and making, preparing and obtaining any tests, surveys, or studies Developer may deem reasonably necessary or appropriate, including but not limited to environmental, surveying, drainage, soils tests and studies, and other tests and studies pertaining to the condition of the Site provided that the entity or individual entering the Site signs a hold harmless agreement that also details the purposes and duration of the entry upon the Site. Developer shall defend, indemnify and hold City harmless for, from and against any claims, demands, actions, liabilities and obligations (including, but not limited to, mechanics' and materialmen's liens) ("collectively, **"Claims"**) to the extent arising from Developer's exercise of the rights granted to Developer under this § 202, except for Claims arising from City's gross negligence or willful misconduct.

ARTICLE III. CONVEYANCE OF PARCEL

§ 301. Conveyance of the Site by City

§ 301.1 Site Acquisition by Developer

Upon timely performance of the obligations set forth in this § 301, City shall convey fee title of the Site to the Developer or its designated Affiliate. As used in this Agreement, the **"Closing Date"** shall be the date specified in § 301.2 below. The consummation of the conveyance of fee title from City to Developer or its designated Affiliate (**"Closing"**) shall occur within the time frame described in this § 301. The Closing shall be deemed to have occurred when the Special Warranty Deed, as described in § 108 above, has been recorded. The Closing and conveyance of title shall be with the Escrow Agent listed in § 106 of this Agreement. The Closing shall occur at the office of Escrow Agent or such other place as City and Developer may otherwise mutually agree in writing. The Developer or its designated Affiliate shall pay all escrow fees and charges, premiums for title insurance policies and any other costs relating to the escrow or otherwise required to implement the provisions of this Agreement.

§ 301.2 Conveyance of Site

The Closing shall occur after the City's written certification that the Developer or its designated Affiliate has satisfied the following requirements pertaining to the Site (collectively, the **"Closing Requirements"**).

Closing of Escrow shall be subject to the following conditions:

a. Obligations of City:

- i. City shall present to the Escrow Agent a Special Warranty Deed for the Site.

b. Obligations of Developer:

- i. Developer shall transfer to Escrow Agent the Purchase Price minus its Deposit, an amount of \$2,775,000.
- ii. Developer shall present to CEDD evidence of the issuance of the first building permit.
- iii. Developer shall present to CEDD evidence of financing secured to commence construction of the Project.
- iv. Developer must pay all escrow fees and closing costs.

Once the above obligations have been met the Escrow Period shall conclude and Escrow shall close.

§ 302. Condition of the Site

Except for the limited representations and warranties contemplated in this Agreement, the Special Warranty Deed and any other closing documents executed by City, the Site is being sold in an “as is” condition, with no warranty, express or implied, by the City as to the physical condition of the soil, its geology, the condition or adequacy of any existing improvements to the Site or the presence of faults. Prior to the conveyance of the Site, the City, at its expense, shall maintain the Site in a safe, sanitary and attractive condition in accordance with all applicable laws, including but not limited to dust control requirements.

§ 303. Environmental Indemnification of City

Effective upon the Closing, Developer shall defend, indemnify, and hold harmless the City from and against any claims, demands, complaints and/or actions, known or unknown, made or brought against the City and arising under any Environmental Laws or otherwise based upon any Regulated Substances condition, other than a condition existing on the Closing Date (a “**Preexisting Condition**”) or arising from the acts or conduct of the City. The Preexisting Conditions existing on the Site are documented in the Phase I Environmental Site Assessment and Limited Phase II Soil Vapor Survey performed by Speedie and Associates, dated November 2, 2018, and submitted to the City by Developer concurrently herewith. This defense and indemnity includes, without limitation, any claims, demands, complaints, and/or action, asserted

under the Environmental Laws and federal and state common law pertaining to Regulated Substances or any other substance or material determined to be hazardous to health or the environment (such as asbestos, mercury and mold), but does not include liability arising from the acts or conduct of the City or from a Preexisting Condition. The obligations under this section shall survive the expiration, cancellation and/or termination of this Agreement.

Within the context of this Agreement, “**Environmental Laws**” are those laws promulgated for the protection of human health or the environment, including but not limited to the following as the same are amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*; the Clean Water Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Arizona Environmental Quality Act, Title 49 of the Arizona Revised Statutes; the Occupational Safety and Health Act of 1970, as amended, 84 Stat. 1590, 29 U.S.C. §§ 651-678; Maricopa County Air Pollution Control Regulations; Title 41, Article 4, Archaeological Discovery, Arizona Revised Statutes; regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the local, county, state or federal government) now in effect or hereinafter enacted that deal with the regulation or protection of human health and the environment, including but not limited to the ambient air, ground water, surface water, and land use, including substrata soils.

Within the context of this Agreement “**Regulated Substances**” is defined as follows: (1) Any substance identified or listed as a hazardous substance, pollutant, hazardous material, or petroleum in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*, and in the regulations promulgated thereto; and Underground Storage Tanks, U.S.C. §§ 6991 to 6991i; (2) Any substance identified or listed as a hazardous substance, pollutant, toxic pollutant, petroleum, or as a special or solid waste in the Arizona Environmental Quality Act, A.R.S. § 49-201 *et seq.*; including, but not limited to, the Water Quality Assurance Revolving Fund Act, A.R.S. § 49-281 *et seq.*; the Solid Waste Management Act, A.R.S. § 49-701 *et seq.*; the Underground Storage Tank Regulation Act, A.R.S. § 49-1001 *et seq.*; Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4846 and Management of Special Waste, A.R.S. § 49-851 to 49-868; or (3) All substances, materials and wastes that are, or that become, regulated under, or that are classified as hazardous or toxic under any Environmental Law during the term of this Agreement as well as any other materials or substances in amounts which have been determined to be hazardous to human health or the environment including, but not limited to, asbestos, mold and mercury.

Within the context of this Agreement, “**Release**” means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping.

Notwithstanding any provision herein to the contrary, upon any transfer of the Developer’s rights and obligations under this Agreement, whether or not such transfer is authorized hereunder, the representations and warranties set forth above shall remain as the joint and several obligations of the Developer and Developer’s transferee, and shall survive (subject to § 613) any transfer and the cancellation and/or termination of this Agreement.

ARTICLE IV. REDEVELOPMENT OF THE SITE

§ 401. Construction Commencement, Construction Activities and Completion Benchmarks

§401.1 Schedule

Developer and City commenced negotiation of this Agreement on December 3, 2018 (“**Negotiation Commencement Date**”). Developer and City agree that all pertinent deadlines shall be calculated from the Negotiation Commencement Date.

§401.2 Construction Commencement of the Project - Defined

Developer shall satisfy all approval requirements for the issuance of building permits (“**Permits**”) including, but not limited to, payment of all applicable plan review and permit related fees, and the obtainment of all building permits necessary for the Project. CEDD may reasonably cooperate with Developer to facilitate any consents from the City that may be necessary for the issuance of Permits to Developer prior to the Closing; however, it is the Developer’s obligation to provide any necessary documentation to CEDD to demonstrate approval of Permits described above. Moreover, pursuant to § 104.1, nothing in this Agreement obligates the City to issue any consent in its regulatory capacity. The Close of Escrow shall otherwise be known as the “**Commence Construction Date**” and shall occur as more specifically set forth in this § 401.

§401.3 Commence Construction

The Commence Construction Date shall be prior June 3, 2020, which is within eighteen (18) months from the Negotiation Commencement Date.

§401.4 Construction Activities

At any time throughout the construction of the Project, CEDD or other City staff (except for City inspectors acting in the City's regulatory or governmental capacities) shall have the ability to conduct visual reviews of the Project, and shall provide Developer forty-eight (48) hours notice prior to physically entry onto the Site. Additionally, Developer shall provide CEDD a weekly construction status of the Project and notice of significant impacts or activities to happen in the coming week. Moreover, Developer shall reasonably notify (and reasonably coordinate with, if necessary) adjacent property owners (or managers of adjacent properties) of pertinent construction activities.

§401.5 Construction Completion of the Project -- Defined

Developer will complete the Project, as evidenced by obtaining the final Certificate of Occupancy for the entirety of the Project (the "C of O"), no later than thirty (30) months from the Commence Construction Date ("Completion of Construction").

§ 402. Government Approval; Construction Requirements

Developer will obtain any legally required approval of the final plans and specifications by any and all federal, state, municipal and other governmental authorities, offices and departments having jurisdiction in the matter, and, upon the City's reasonable request, provide conformed copies of executed approvals to the City. Prior to the submission of the construction plans to the City's Planning and Development Department, Developer shall have submitted copies of those plans to CEDD and received CEDD's written approval that the plans are in conformance with the Proposal. CEDD agrees to promptly respond to Developer regarding any submittals hereunder and, in the event CEDD has any objections, such items shall be specifically identified in writing and transmitted to Developer within ten (10) days of receipt of any submittal.

Developer or its designated Affiliate will construct the Project in a good, careful, proper, and workmanlike manner in accordance with:

- A. The construction plans approved pursuant to this section of the Agreement, except for material changes which must be mutually agreed upon between Developer and CEDD. Any such changes shall be consistent with the provisions of this Agreement. Developer acknowledges that any approvals required to be obtained from CEDD pursuant to this Agreement shall be in writing and are separate from and in addition to the normal and customary reviews, permits, and approvals required by the City's Planning and Development Department and any applicable governmental

requirements; provided, however, that CEDD shall use reasonable efforts to assist Developer in obtaining all required governmental approvals for the Project on an expedited basis;

- B. All provisions of law and any and all permits, construction easements, and licenses required by ordinance, code, law, or public regulations or by any authority at any time having jurisdiction over the Site; and,
- C. The requirements of any public or quasi-public body having similar jurisdiction.

§ 402.1 Expedited Reviews and Approvals; Project Coordinators;

The City acknowledges and agrees that development of the Site by Developer will require the City's ongoing participation in the review and approval of preliminary and final site plans, infrastructure plans, drainage plans, design plans, building plans, special use permits, grading permits, building permits and other plans, permit applications and inspections which are part of the City's current building and development requirements (hereinafter collectively referred to as "**Approval Requests**"). Subject to the limitations in § 104.1, the City and Developer agree that, in connection with all such Approval Requests relating to the development of the Site or the construction of any improvements thereon, they shall cooperate with each other in good faith to expedite the processing and approval of any such Approval Requests and otherwise accelerate the review and response to all such Approval Requests to the greatest extent possible in compliance with City regulations and policies. The City agrees that the Planning and Development Department Team Leader for the Project, the CEDD project manager and representatives of the Developer, shall have the right to request a meeting upon five (5) business days' written notice to help facilitate timely discussion and resolution of any design, development or construction issues arise which cannot be timely resolved through ordinary City processes and procedures.

§ 403. Uses and Covenants

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to devote the Site only to the uses set forth in this Agreement, except as otherwise expressly approved by the City, all subject to the uses permitted under the Redevelopment Plan. Regardless of the uses that would otherwise be allowed pursuant to the applicable zoning classification, the Site will be not be devoted to any of the **Prohibited Uses** identified in **Exhibit D**.

§ 403.1 Occupancy

In no event is Developer obligated to, or representing, that it will cause any retail or other urban uses to continuously operate, or open for business on any particular day of in any particular order.

§ 403.2 Improvement Measurements

For purposes of determining if any improvements meet the requirements of this Agreement, measurements of area shall be the gross area of all floors within a structure, and shall include mezzanines, common areas, service areas, lobbies, elevator shafts, seating and public areas, and other areas that may benefit an occupant but may not otherwise constitute "leasable" area. Any outdoor food or retail service area establishment for the exclusive use of patrons of the establishment shall be included in the gross square footage for that use.

§ 404. Liens and Encumbrances

§ 404.1 Prior to Conveyance of Site to the Developer

Before the Closing, Developer shall not place any lien or encumbrance on the Site unless Developer obtains City's prior written consent (which consent may be withheld or given in City's sole discretion).

§ 404.2 After Conveyance of Any Portion of the Site to the Developer

Developer shall not place, or allow to be placed, any lien or encumbrance on any portion of the Site to which it has not acquired fee title. Any liens that the Developer chooses to place on particular portions of the Site shall be subordinate to those documents recorded in connection with the Closing, pursuant to Article III of this Agreement.

§ 405. Indemnification Provisions and Insurance Requirements

Developer, at its sole cost and expense, shall and does hereby indemnify, defend, and hold the City harmless from and against any challenge, whether administrative, judicial, or otherwise, by any person or entity, to the City's execution of or performance under this Agreement (a "**Challenge**"). This indemnification shall survive the expiration or earlier termination of the Agreement.

Developer agrees to and shall indemnify and hold City harmless from and against all liability, loss, damage, costs or expenses (including reasonable attorneys' fees

and court costs) arising from or as a result of the death of a person or any accident, injury, loss or damage or other Claims whatsoever caused to any person or to the property of any person which shall occur on or adjacent to the Site to the extent directly or indirectly caused by any acts done thereon by, or any errors or omissions of, Developer or its agents, servants, employees or contractors (collectively, "**Developer's Designees**").

Developer and Developer's Designees will hold all goods, materials, furniture, fixtures, equipment, machinery and other property owned or controlled by Developer and Developer's Designees and located on the Site and/or the improvements thereon at the sole risk of Developer and Developer's Designees, and shall save the City harmless from any loss or damage thereto by any cause whatsoever (except to the extent the loss or damage is caused by the City as established by a court of competent jurisdiction).

The obligations of Developer under this § 405 shall not, in any way, be affected by the absence in any case of covering insurance or by the failure of any insurance carrier to perform any obligation on its part to be performed under insurance policies affecting the Site.

If any claim, action or proceeding is made or brought against the City by reason of any event which is the subject of Developer's foregoing indemnity, then, upon demand by City, Developer, at its sole cost and expense, shall resist or defend such claim, action or proceeding, with legal counsel reasonably acceptable to City. Notwithstanding the foregoing to the contrary, Developer's defense and indemnity obligations herein shall not apply to Claims or Challenges arising solely from the actions, omissions, and conduct of the City.

§ 406. Employment Laws

Developer will comply with all applicable local, state and federal fair employment laws and regulations.

§ 407. Legal Worker Provisions

The City is prohibited by A.R.S. § 41-4401 from awarding an agreement to any party who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Developer agrees that:

1. Developer and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A.

2. A breach of warranty under paragraph 1 shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.

3. The City retains the legal right to inspect the papers of Developer or subcontractor employee(s) who work(s) on this Agreement to ensure that Developer or subcontractor is complying with the warranty under paragraph 1.

ARTICLE V. DEFAULTS, REMEDIES AND TERMINATION

§ 501. Defaults - General

Subject to the notice and cure periods set forth in § 506 and the extensions of time set forth in § 604, failure or delay by any Party to perform any term or provision of this Agreement constitutes a default under this Agreement. A nondefaulting Party shall give written notice of default to the Party in default, specifying the default complained of by the injured Party. Failure or delay in giving such notice shall not constitute a waiver of any default, but the time period for the defaulting party to attempt to cure pursuant to § 406 shall not commence until such written notice is given. Except as otherwise expressly provided in this Agreement, any failure or delay by any Party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive either such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

§ 502. Institution of Legal Actions

If either Party institutes legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy as permitted under this Agreement, such legal action shall be instituted in the County of Maricopa, State of Arizona, or in the Federal District Court in the District of Arizona with venue in the County of Maricopa, Arizona.

If any legal action is instituted pursuant to this § 502 of this Agreement, the substantially prevailing Party in such action shall be reimbursed by the substantially non-prevailing Party for all costs and expenses of such action, including reasonable attorneys' fees, as may be fixed by the Court.

§ 503. Applicable Law

The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement, without giving effect to the principles of conflicts of laws.

§ 504. Acceptance of the Legal Process

In the event that any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Clerk of the City of Phoenix, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the City against the Developer, service of process shall be made by personal service or in such other manner as may be provided by law, whether made within or without the State of Arizona.

§ 505. Rights and Remedies Are Cumulative

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by such defaulting Party.

§ 506. Remedies

§ 506.1 Pre-Closing Remedies

(a) Notice and Cure

If, on or before Closing, any Party defaults with regard to any of the provisions of this Agreement, the nondefaulting Party shall deliver written notice of such default upon the defaulting Party. If the default is not commenced to be cured within thirty (30) calendar days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, then the nondefaulting Party shall have those rights and remedies set forth in this § 506.1. It shall be the responsibility of the Party receiving the notice of default to provide evidence of the cure of the default or its continuous efforts to accomplish the cure, and the nondefaulting Party shall reasonably evaluate this evidence to determine if the defaulting Party is diligently pursuing the cure.

(b) Pre-Closing Default by Developer

If, on or before Closing, Developer defaults with regard to any of the provisions of this Agreement, provided that Developer did not commence and thereafter continuously and diligently pursue the cure of such default pursuant to § 506.1(a), then City, as its sole and exclusive remedy therefore, may either (i) waive such breach; or (ii) terminate this Agreement and retain the Earnest Money Deposit as liquidated damages and as consideration for the acceptance of this Agreement, and not as a penalty.

(c) Pre-Closing Default by City

If, on or before a Closing, City defaults with regard to any of the provisions of this Agreement, provided that City did not commence and thereafter continuously and diligently pursue the cure of such default pursuant to § 506.1(a), then Developer may elect to either: (i) waive the effect of such matter and proceed with the transaction set forth in this Agreement; (ii) terminate this Agreement and receive a refund of the Earnest Money Deposit; or (iii) institute all proceedings necessary to specifically enforce the terms of this Agreement and cause fee title to the Site to be conveyed to Developer pursuant to the terms of this Agreement, it being understood and agreed that the Site is unique and that the right to specific performance is a just and equitable remedy under the circumstances.

(d) Limitation on Pre-Closing Damages

Anything herein to the contrary notwithstanding, neither City nor Developer shall in any event be responsible or liable for consequential, exemplary or punitive damages as a result of any act or omission in connection with this Agreement.

§ 506.2 Post-Closing Remedies

(a) Notice and Cure

If, after any applicable Closing, any Party defaults with regard to any of the provisions of this Agreement, or if it shall be determined by a court of competent jurisdiction that either Party breached any of the representations, warranties or covenants made by such Party, the nondefaulting Party shall deliver written notice of such default upon the defaulting Party. If the default is not commenced to be cured within thirty (30) calendar days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, then the nondefaulting Party shall have those rights and remedies set forth in this § 506.2. It shall be the responsibility of the Party receiving the notice of default to provide evidence of the cure of the default or its continuous efforts to accomplish the cure, and

the nondefaulting Party shall reasonably evaluate this evidence to determine if the defaulting Party is diligently pursuing the cure.

(b) Post-Closing Defaults Relating to Construction Obligations.

If, after Closing, Developer defaults with regard to Developer's construction obligations under § 401 above (the "**Construction Obligations**"), and provided that Developer did not commence and thereafter continuously and diligently pursue the cure of such default pursuant to § 506.2 (a), then City, as its sole and exclusive remedy therefor, shall have the right to (i) terminate this Agreement, or (ii) pursue its rights and remedies under any other documents, instruments and agreements delivered by Developer to City which provide for additional rights and remedies upon Developer's default of its Construction Obligations; provided, however, that in any action for damages, City shall only be entitled to seek recovery of actual damages which directly result from Developer's breach, and the City hereby waives and covenants not to assert any right to seek or obtain any other damages (including, but not limited to, incidental or consequential damages).

(c) All Other Post-Closing Defaults.

If, after Closing, either party defaults in any other post-Closing terms or provisions (other than with respect to Construction Obligations, for which § 506.2 (b) shall control), or if it shall be determined by a court of competent jurisdiction that either Party breached any of the representations, warranties or covenants made by such Party with respect to the Site acquired by Developer, and provided that the defaulting Party did not commence and thereafter continuously and diligently pursue the cure of such default pursuant to § 506.2 (a), then such non-defaulting Party shall have any right or remedy available at law or in equity, including the right to demand and obtain specific performance; provided, however, the non-defaulting Party shall only be entitled to seek recovery of actual damages which directly result from defaulting Party's breach, each Party hereby waiving and covenanting not to assert any right to seek or obtain any other damages (including, but not limited to, incidental or consequential damages) resulting from the other Party's breach .

ARTICLE VI. GENERAL PROVISIONS

§ 601. Notices, Demands and Communications Between the Parties

All notices, demands or other writings in this Agreement provided to be given, made or sent by any Party hereto to other Parties shall be deemed to have been fully given, made or sent when made in writing and personally delivered, or received by United States postpaid registered or certified mail and addressed as follows:

To City: Director
Community and Economic Development Department
200 West Washington Street, 20th Floor
Phoenix, Arizona 85003-1611

and

City Clerk
City of Phoenix
200 West Washington, 15th Floor
Phoenix, Arizona 85003-1611

To Developer: BERGER HOLDINGS, LLC
c/o Darryl Berger
7001 N. Scottsdale Rd., Suite 2055
Scottsdale, AZ 85253

The address to which any notice, demand or other writing may be given, made or sent to any Party may be changed by written notice given by such Party as above provided.

§ 602. Conflict of Interests

No member, official or employee of the City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law. The Parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of A.R.S. § 38-511.

§ 603. Warranty Against Payment of Consideration for Agreement

The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, realtors and attorneys.

§ 604. Enforced Delay: Extension of Time of Performance

In addition to specific provisions of this Agreement, non-performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes, lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; unusually severe shortages of construction labor or materials; or a combination of any of the foregoing or any other similar event beyond a Party's reasonable control in each case that materially adversely affects the ability of a Party to perform, but not in any

event market or economic conditions. An extension of time for any such cause shall only be for the period of the delay, which period shall commence to run from the time of the commencement of the cause. Any Party claiming such extension shall send written notice to the other Party within thirty (30) calendar days after the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Parties hereto.

§ 605. Approvals by the City and the Developer

Subject to the limitations contained in § 104.1, wherever this Agreement requires the City and the Developer to approve any contract, document, plan, proposal, specification, drawing or other matter, such approval shall not be unreasonably withheld, conditioned, or delayed.

§ 606. Submission of Documents for Approval

Whenever this Agreement requires one Party to submit plans, drawings or other documents to another Party for approval, then such submittal shall be accompanied by a letter stating that they are being submitted pursuant to this Agreement. Such item will be deemed rejected unless approved in writing by the receiving Party. The Parties acknowledge that the plans, drawings or other documents to CEDD for approval are not "Licenses" as defined in A.R.S. § 9-831 and not subject to the requirements set forth in Title 9, Chapter 7, Article 4 of the Arizona Revised Statutes.

§ 607. Time of Essence

Time is of the essence of this Agreement and of every term, condition and covenant hereof.

§ 608. No Waiver

Except as otherwise expressly provided in this Agreement, any failure or delay by any Party in asserting any of its rights or remedies as to any default, shall not operate as a waiver of any default, or of any such rights or remedies, or deprive any such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

§ 609. Severability

If any provision of this Agreement shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

§ 610. Captions

The captions contained in this Agreement are merely a reference and are not to be used to construe or limit the text.

§ 611. Entire Agreement, Waivers and Amendments

This Agreement is executed in two (2) duplicate originals each of which is deemed to be an original. This Agreement contains thirty-four (34) pages of text and the below listed attachments, which are incorporated herein by this reference, and constitute the entire understanding and agreement of the Parties.

Exhibit A - Legal Description of Site

Exhibit B - Site Map

Exhibit C - Special Warranty Deed

Exhibit D – Prohibited Uses

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the Parties hereto.

§ 612. Recordation of Agreement

The Parties acknowledge that this Agreement constitutes a “Development Agreement” within the meaning of Arizona Revised Statutes, § 9-500.05, and that, in accordance therewith, the Agreement shall be recorded against any present or hereinafter acquired interest of the Developer in the Site, in the Office of the Maricopa County Recorder to give notice to all persons of its existence and of the Parties’ intent that the burdens and benefits contained herein be binding on and inure to the benefit of the Parties and all their successors in interest and assigns.

§ 613. Termination of Agreement; Survival

Upon the termination of this Agreement pursuant to the terms of this Agreement, neither City nor Developer shall have any further rights or obligations under

this Agreement, except for those indemnities and other provisions that expressly survive the termination of the Agreement. Notwithstanding the forgoing sentence or anything in this Agreement to the contrary, in no case shall any provision of this Agreement survive the Closing for more than three (3) years following the Closing Date.

SIGNATURES ON FOLLOWING PAGES

DATED this 25 day of April 2019.

CITY OF PHOENIX, a municipal corporation
ED ZUERCHER, City Manager

By: [Signature]
Christine Mackay
Community and Economic Development
Director

ATTEST:
[Signature]
City Clerk



APPROVED AS TO FORM:

[Signature]
Acting City Attorney TCS

CITY CLERK DEPT.
2019 APR 25 AM 10:48

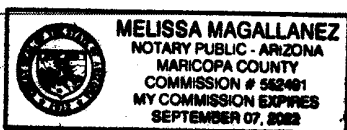
STATE OF ARIZONA)
) ss
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me this 25 day of April, 2019, by Christine Mackay, the Community and Economic Development Director of the CITY OF PHOENIX, a municipal corporation of the State of Arizona.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]
Notary Public

My Commission Expires:



BERGER HOLDINGS, LLC, an Arizona limited liability company

By: *Darryl Berger*
Printed Name: Darryl Berger
Its: Member

STATE OF ARIZONA)
) ss
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me this 12th day of April, 2019, by Darryl Berger, the Member of Berger Holdings a LLC company corporation of the State of Arizona.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Kathleen Murphy
Notary Public

My Commission Expires:

1/31/2022

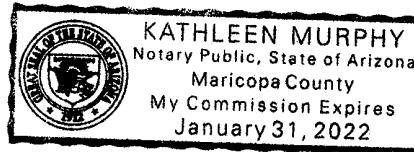


Exhibit A
Legal Description of Site

LOT 2, OF PHELPS DODGE TOWER, ACCORDING TO THE PLAT OF RECORD IN
THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY,
ARIZONA, RECORDED IN BOOK 556 OF MAPS, PAGE 26.

[illegible]

Exhibit C

WHEN RECORDED, RETURN TO:

Thomas Stack, Esq.
City of Phoenix Law Department
200 West Washington, 13th Floor
Phoenix, Arizona 85003-1611

Exempt under A.R.S. §11-1134(A)(3)

SPECIAL WARRANTY DEED

City Contract No. _____

For the consideration of Ten Dollars and other valuable consideration, CITY OF PHOENIX, ARIZONA, a municipal corporation organized and existing under the laws of the State of Arizona ("**Grantor**"), does hereby convey to BERGER HOLDINGS, LLC, an Arizona limited liability company ("**Grantee**"), the following real property ("**Subject Property**") situated in Maricopa County, Arizona, together with all improvements situated thereon and all rights and privileges appurtenant thereto, to-wit:

See Exhibit "A" attached hereto and made a part hereof.

SUBJECT TO:

1. Restrictions contained in the Downtown Area Redevelopment and Improvement Plan approved and adopted by the City Council of the City of Phoenix, Arizona by Resolution 15143 passed March 13, 1979, as amended.
2. Reservations or exceptions contained in the patent from the United States of America or in the act or acts authorizing the issuance thereof, unpatented mining claims, water rights, and claims or title to water.
3. All easements, rights-of-way, encumbrances, liens, covenants, conditions, and restrictions as may appear of record.
4. The condition that the Subject Property will not be devoted to any of the Prohibited Uses identified in Exhibit "B" attached hereto and incorporated herein by this reference.

Exhibit C

AND GRANTOR hereby binds itself and its successors to warrant and defend the title, as against all acts of Grantor herein and no other, subject to the matters above set forth.

DATED this ____ day of _____, 20__.

“GRANTOR”

CITY OF PHOENIX, a municipal corporation
ED ZUERCHER, City Manager

By: _____
Christine Mackay
Community and Economic Development
Director

ATTEST:

City Clerk

APPROVED AS TO FORM:

Acting City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

This instrument was acknowledged before me this ____ day of _____, 20__
by _____, the Community and Economic Development Director of the
CITY OF PHOENIX, a municipal corporation, on behalf of the City of Phoenix.

Notary Public
My Commission Expires: _____

Exhibit C

Exhibit A

Legal Description

LOT 2, OF PHELPS DODGE TOWER, ACCORDING TO THE PLAT OF RECORD IN
THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY,
ARIZONA, RECORDED IN BOOK 556 OF MAPS, PAGE 26.

Exhibit A to Exhibit C

Exhibit B

Prohibited Uses

1. Commercial or amateur wireless communications monopole, tower, roof or side-mounted antenna and related roof-mounted facilities, or microwave antenna, unless appropriately screened consistent with the architectural design of the building
2. Car wash or automotive repair
3. Gas station
4. Outdoor storage
5. Sexually-oriented business, such as adult bookstore, adult theatre, adult live entertainment, erotic dance or performance studio, or adult novelty store
6. Bar, lounge, or tavern selling alcoholic beverages for off-premises consumption
7. Retail sale of liquor or other alcoholic beverages for off-premises consumption except as an accessory use to a restaurant or food market or in a retail store located in a multi-tenant commercial development in accordance with the following restrictions:
 - a. The retail store shall consist of a maximum of 20% of the leasable retail space for the commercial development.
 - b. Liquor store, defined as an establishment operating under a "Series 9" license issued by the Arizona Department of Liquor Licenses and Control for off-sale retail for consumption off of the licensed premises, as per A.A.C. R19-1-101.A.27 as of May 1, 2018.
 - c. An establishment primarily selling single-serving containers of beer or wine (12 ounces or less) for off-premises consumption, except as permitted under A.R.S. § 4-244(32).
8. Construction yard, except incidental to repair, restoration or construction of improvements on the property
9. Employment agency for day labor
10. Helistop or heliport
11. Manufacturing, fabrication, and assembly of finished products or subassemblies, except incidental to office and retail use (such as assembly of office cubicles)
12. Mortuary or crematorium
13. Newspaper or magazine printing, except editorial and administrative offices or retail copying and printing services
14. Stadium
15. Halfway house
16. Public baths
17. Blood bank and blood plasma center
18. Pawn shop
19. Public storage garages or facilities
20. Cultivation and/or sale of Medical Marijuana

Exhibit B to Exhibit C

Exhibit D

Prohibited Uses

1. Commercial or amateur wireless communications monopole, tower, roof or side-mounted antenna and related roof-mounted facilities, or microwave antenna, unless appropriately screened consistent with the architectural design of the building
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