

July 3, 2025

Mary M. Curtin  
Senior Litigation Counsel  
Office of the Arizona Attorney General  
2005 N. Central Avenue  
Phoenix, AZ 85004  
Mary.Curtin@azag.gov

Re: Response to Official Letter Request Regarding Gift Clause Compliance in  
City of Peoria's Economic Development Agreement with Amkor  
Technology Arizona, Inc.

Dear Ms. Curtin:

This letter is submitted on behalf of the City of Peoria ("City") in response to the Request for Investigation ("Request") that was sent by your office to the City on June 23, 2025, concerning the City's February 20, 2024 Economic Development Agreement (the "Amkor Development Agreement") with Amkor Technology Arizona, Inc ("Amkor"). Your Request indicates that the Legislator Request that you received raises three alleged violations of law or the Constitution with respect to the Agreement. We will address them in the order they are set forth in the Request. However, based on the plain reading of the applicable statutes and case precedent, it is clear that the City's actions not only met the applicable tests, but also resulted in a tremendous economic opportunity for the community, the State of Arizona, and the Country.

**I. The Request is premature.**

While the City is well-aware of the citizen concerns with the Amkor project, Representative Chaplik did not provide the City with written notification of the alleged violations of law or the Constitution, as is required by A.R.S. § 41-194.01C, and Representative Chaplik did not give the City 60 days to resolve the violation before requesting an investigation by the Attorney General pursuant to A.R.S. §41-194.01. As a result, the Attorney General should return the Legislator Request to Representative Chaplik with instructions that he comply with the notice requirements of the statute before he requests an investigation by the Attorney General.

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## **II. Summary of the Agreement and Project.**

### **A. The Project at Issue.**

Amkor is the largest U.S.-based outsourced semiconductor assembly and test (“OSAT”) company and a global leader in advanced packaging technology—an essential component in meeting the surging demand for artificial intelligence (“AI”) chips. As a pioneer in the OSAT industry and the second-largest OSAT provider in the world, Amkor is uniquely positioned to help strengthen domestic semiconductor manufacturing. With a CHIPS and Science Act award—approved in December 2025 for up to \$407 million in direct funding—Amkor seeks to establish a transformative project that will advance national security, reinforce the U.S. semiconductor supply chain, and bring long-term economic benefits to the Arizona community.

Amkor is investing approximately \$2.5 billion in a state-of-the-art manufacturing campus, including \$1.5 billion to construct more than 300,000 square feet of clean room space within a total facility footprint of over 1,000,000 square feet. This facility is expected to create approximately 2,000 high-quality manufacturing jobs and support over 2,000 construction jobs at peak. The project will also support Amkor’s partnerships with Arizona State University’s Research Park—a growing hub for semiconductor innovation and talent.

Advanced packaging has been identified as a critical gap in the domestic semiconductor supply chain, with major implications for both economic and national security. Currently, the United States and the broader Americas lack high-volume OSAT capacity. Amkor’s new facility will fill this void by establishing the largest outsourced advanced packaging operation on U.S. soil, capable of producing over 276 million packages annually. This will enhance stability, predictability, and resilience of supply to critical industries while reducing strategic vulnerabilities. Through partnerships with commercial and academic institutions, inclusion of diverse suppliers, and long-term strategic planning, Amkor’s investment will help secure the nation’s semiconductor future for decades to come.

To measure, track, and report publicly on its climate and environmental responsibility goals and commitments, Amkor currently reports in alignment with the Sustainability Accounting Standards Board (SASB) standards for Semiconductors. Amkor also reports climate change and water security data to CDP (formerly the Carbon Disclosure Project) and is a member of the Responsible Business Alliance.

Overall, this project represents a rare convergence of local opportunity, state-level economic growth, and national security impact—anchored by a globally proven OSAT leader bringing a critical capability back to U.S. soil.

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## B. The Project Agreements

The Amkor Development Agreement is a complex transaction that relies on a separate transaction that goes back thirteen years. Unlike other development agreements that have been challenged before the courts, the transactions at issue do not involve a governmental entity providing funding or other financial incentives directly to a recipient to entice economic development with only speculative returns to the governmental entity.

In 2012, the City and Vistancia Land Holdings, LLC (including its affiliates, “Vistancia”) entered into the separate Amended and Restated Development Agreement (“Vistancia Development Agreement”) governing the development of the Vistancia Commercial Core. Vistancia agreed, among other things, to donate up to 50-acres of land to promote economic development within the Vistancia Commercial Core (the “Project Site”). In exchange, and among other things, the City agreed to fund \$6.7 million of public infrastructure, to be built by Vistancia.

In 2015, the City and Vistancia entered into the First Amendment to the Vistancia Development Agreement (the “2015 Vistancia Amendment”) establishing the “Targeted End User” mechanism, granting the City the authority to identify a qualified Targeted End User, and requiring Vistancia to donate up to 50 acres of the Project Site to the Targeted End User. The Parties agreed that the “Targeted End User” needed to “generate significant commercial, office, and/or industrial employment within the Vistancia Commercial Core and/or the City, and/or will significantly further economic development within the Vistancia Commercial Core and/or the City”, as defined in the 2015 Vistancia Amendment. Accordingly, the City was granted a limited but contractually enforceable right to identify a “Targeted End User”, and, upon doing so, permit that Targeted End User to obtain title to the Project Site directly from Vistancia.

Under the 2015 Vistancia Amendment, the City possessed only a limited right to identify a “Targeted End User” to receive the Project Site from Vistancia. This identification right did not authorize the City to transfer or convey the Project Site to any party of its choosing or for any purpose, or to acquire the Project Site for a use other than economic development, and the City could only acquire the Project Site after it identified a “Targeted End User”. **The City does not own the Project Site and has no independent power to dispose of the Project Site other than to a Targeted End User.**

Ultimately, the City identified Amkor as satisfying the necessary criteria for a Targeted End User and in exchange, Amkor made certain contractually enforceable commitments to the City as discussed below. On February 20, 2024, the City entered into the Amkor Development Agreement with Amkor. The Amkor Development Agreement formalized the City’s identification of Amkor as the “Targeted End User” of approximately 56.31 acres of land in the Vistancia

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Commercial Core. The property consists of the 50-acre Project Site and 6.31 acres acquired by Amkor from Vistancia under a separate Purchase and Sale Agreement.

Under the Amkor Development Agreement, Amkor committed to construct an advanced semiconductor manufacturing and packaging facility on the Project Site. Amkor agreed to make a \$700 million capital investment and create at least 850 full-time jobs over the course of the project or pay \$15 million in monetary penalties for failure to meet such capital investment and job thresholds.

**III. The City has not violated A.R.S. § 9-402(B) by failing to engage in a “competitive bidding process” prior to entering into the Amkor Development Agreement because the City is not subject to A.R.S. § 9-402(B).**

A.R.S. § 9-402(B) applies only when a city sells or conveys property it owns. Subsection (A) makes this clear “A city or town may sell and convey all or any part of **its real or personal property**, whether or not the property is devoted exclusively to public use.” (emphasis added). Accordingly, the competitive bidding process requirement applies only when the city is disposing of its own land.

Here, the City never held title to the Project Site that was transferred to Amkor. Instead, the Project Site was owned by Vistancia. Under the 2015 Vistancia Amendment, the City exercised its limited authority to identify a qualifying “Targeted End User”, thereby triggering Vistancia’s contractual obligation to donate the Project Site for economic development purposes to Amkor. At no point did the City sell or dispose of land it owned requiring compliance with the statute.

Further, assuming arguendo that the City owned the Project Site, A.R.S. § 9-402(B) would still not apply. The City of Peoria is a charter city under Article XIII, Section 2 of the Arizona Constitution. As such, it is not subject to state statutes governing local affairs, including the procedures for the sale of municipal property. *See City of Scottsdale v. State*, 237 Ariz. 467, 470, ¶ 12 (App. 2015) (“charter communities may regulate matters of strictly local concern without state interference or oversight.”).

The Arizona Supreme Court has held that a charter city’s sale of real property belonging to it is a matter of strictly local concern. In *City of Tucson v. Arizona Alpha of Sigma Alpha Epsilon*, the Court held “the manner and method of disposal of real estate of a city is not a matter of state-wide public concern.” 67 Ariz. 330, 336 (1948). The Court rejected the claim that a charter city was bound by state bidding procedures, stating that the relevant statute (the predecessor of current 9-402(B)) had “no application to charter cities and constitute no limitation upon them.” *Id.* at 336.

Peoria, like the City of Tucson, is a charter city and its disposition of city-owned property is a matter of strictly local concern. The City’s Charter grants the City Council authority over the

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sale of municipal property. Section 3 of the Peoria City Charter grants the city the power to acquire and dispose of property:

The city may lease, sell, convey and otherwise dispose of any real or personal property owned by the city in the manner, for such consideration, and upon such conditions as may be determined by the council.

The City's involvement in the Amkor transaction did not implicate A.R.S. § 9-402(B), because the City neither owned nor conveyed the property at issue. Even if it owned or conveyed the Project Site, Peoria's status as a charter city and the local nature of the transaction exempts it from the statute's procedural requirements.

**IV. The City has not violated A.R.S. § 9-403(F) by failing to obtain a “market rate appraisal” of the Project Site conveyed pursuant to the Amkor Development Agreement because the City is not subject to A.R.S. § 9-403(F).**

A.R.S. § 9-403(F) states “[r]eal property **sold pursuant to this section** shall be sold at not less than the appraised value of the property.” (emphasis added). This statute, like § 9-402, applies only when: (1) the City owns the real property, (2) the real property is being sold, and (3) the city is not a charter city.

As detailed above, the conveyance of the Project Site by Vistancia to Amkor did not involve the City selling city-owned real property. Instead, the City only exercised its right to identify a Targeted End User resulting in Vistancia conveying the Project Site to the Targeted End User for economic development purposes. Accordingly, there was no sale by the City of City-owned real property triggering A.R.S. § 9-403(F), and no statutory requirement to obtain an appraisal.<sup>1</sup>

Moreover, assuming arguendo that the City owned the Project Site, it would not have been required to comply with A.R.S. § 9-403(F), because, as a charter city, Peoria retains full authority over the disposition of municipal property under its Charter when acting in matters of local concern.

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<sup>1</sup>Although irrelevant because the City was not required to obtain an appraisal of the Project Site, Representative Chaplik's valuation of the Project Site at \$33 million is flawed because (1) the appraisal of the 6-acre parcel is based on fee simple absolute ownership; the City's interest in the Project Site is limited to its right to identify a “Targeted End User” and the City has no direct ownership interest in the Project Site; and (2) you cannot extrapolate the value of a 50-acre parcel based on a 6-acre parcel without taking into account the many variables that differentiate a 50-acre parcel from a 6-acre parcel.

**V. The City did not violate the Gift Clause.**

Under the Gift Clause, a public expenditure is valid so long as it (1) serves a public purpose and (2) is supported by adequate consideration. *Neptune Swimming Foundation v. City of Scottsdale*, 256 Ariz. 551, 559 (2024).

**A. The Transaction Serves a Public Purpose.**

The courts take a broad view of permissible public purpose. *Schires v. Carlat*, 250 Ariz. 371, 375 ¶ 8 (2021). In determining whether an agreement serves a public purpose by “promot[ing] the public welfare or enjoyment,” the courts consider both the direct and indirect benefits of the agreement. *Id.* The courts also defer to the City’s judgment in determining whether or not there is a public purpose. *Id.* Indeed, “[t]he court finds a public purpose absent only in those rare cases in which the governmental body’s discretion has been unquestionably abused.” *Id.* at ¶ 9 (quoting *Turken*, 223 Ariz. at 349 ¶ 28).

The Arizona Supreme Court has recognized that economic development, job creation, and regional infrastructure expansion constitute valid public purposes. *Id.* at 373. The City’s identification of Amkor as a targeted employer aligns with long-standing public objectives, including promotion of advanced manufacturing, regional employment growth, and infrastructure development.

Moreover, the City’s proposed agreement seeks to further economic development objectives by promoting economic opportunities with targeted industries, thereby “stimulating economic activity citywide, diversifying the City of Peoria’s economic base, increasing overall economic growth, and generating tax and other income for [the] City.” [Vistancia Development Agreement Recital H.] In fact, the Greater Phoenix Economic Council’s Impact Analysis concluded that the overall project will generate \$28.4 million in direct and indirect tax revenues over a 10-year period.

The Agreement thus passes the first prong of the Gift Clause test.

**B. The Consideration Received by the City Was Not Grossly Disproportionate.**

The second prong of the Gift Clause test requires that the value received by the City is not grossly disproportionate to the value given by the City. *Turken v. Gordon*, 223 Ariz. 342, 351 (2010). In other words, assessing the direct benefits received by the City from the transaction, the “give” must not be grossly disproportionate to the “get”. *Neptune*, 256 Ariz. at 560-61 ¶ 32. In reviewing the proportionality, the court looks at the challenged arrangement itself and does not ask whether the public entity could have made a better deal with someone else. *Id.* Rather the Gift Clause is “simply a check on the proportionality of the deal that was chosen.” *Id.* at 560 ¶ 32.

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In weighing this analysis “consideration consists of direct benefits that are bargained for as part of the contracting party's promised performance, and does not include anticipated indirect benefits.” *Schires*, 250 Ariz. at 376 ¶ 8 (internal quotations omitted). As part of this consideration, Courts will nonetheless consider “nonpecuniary benefits” as consideration. *Neptune Swimming Found.*, 542 P.3d at 251 ¶ 34.

Here, the transacted consideration was proportionate. The City had the right to direct the transfer of the Project Site from Vistancia to a party that would then be required to use the property to promote economic development. The City did not receive title to the Project Site from Vistancia and was not entitled to any monetary consideration when Vistancia donated the Project Site to the Targeted End User. Because the City did not own the Project Site and only identified the donee for the donation by Vistancia, and only to promote economic development, this is not a gift of land from the City and the “give” here cannot be valued as if the City held fee simple title to the land and transferred it to Amkor.<sup>2</sup>

The “get” the City receives from Amkor is direct and enforceable and exceeds any potential “give” attributable to the City’s interest in the Project Site. Under the Amkor Development Agreement, the City received an enforceable commitment that Amkor would invest a specified amount of capital in a project located on the Project Site and that it would create a specified number of jobs within specific timeframes. Crucially, Amkor’s capital investment and job creation commitments are enforceable through liquidated damages of up to \$15 million if the job creation or capital expenditure commitments are not timely met. Unlike cases such as *Turken* and *Schires*, where job creation and other benefits were speculative or aspirational, Amkor’s capital investment commitment and jobs commitment are enforceable, measurable (liquidated), and expressly bargained.

The City identified Amkor as the Targeted End User due to Amkor’s ability and willingness to commit to the job creation thresholds and capital expenditure requirements, as well as the “nonpecuniary benefits” of establishing a transformative project that will advance national security interests, reinforce the U.S. semiconductor supply chain, and deliver long-term economic benefits to the City—all anchored by the second-largest semiconductor assembly and test company and a global leader in advanced packaging technology. In fact, the U.S. Government recognized this value when it awarded \$407 million for the project.

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<sup>2</sup> In fact, under the Vistancia Development Agreement, if the City did not identify a “Targeted End User” by the Deadline Date, *i.e.*, September 14, 2030, Vistancia must pay for the Project Site as reimbursement to the City for the public infrastructure previously paid for by the City. The cost of the public infrastructure was approximately \$6.7 million, and with the 2% per annum interest required under the Vistancia Development Agreement to the Deadline Date, the reimbursement amount would be approximately \$9 million. Thus, the greatest possible public value or “give” of the Project Site that can be attributed to the City is \$9 million.



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The Vistancia Development Agreement mandated that the Project Site be donated to a Targeted End User to “generate significant commercial, office, and/or industrial employment within the Vistancia Commercial Core and/or the City, and/or [to] significantly further economic development within the Vistancia Commercial Core and/or the City.” The City’s duty was to vet and ultimately identify a Targeted End User that would enhance economic impact of the Project Site.

Thus, while indirect economic development benefits are ordinarily not considered in evaluating an agreement for Gift Clause purposes, the analysis is different here. The City’s power to identify the donee of the Project Site required that the donation be made to an entity that will generate significant employment and/or will significantly further economic development. To the extent the City’s ability to identify a Targeted End User had any value—which it did not—the return from it could only come from an entity that would use the property for economic development purposes directly benefiting the City. Since the Project Site could only be used for economic development purposes, any analysis of what the City received must recognize that the “get” here would be the direct benefits of economic development. Such direct economic developments are concrete and backed by a liquidated damages clause, and thus are weighed differently than the speculative economic developments the Court evaluated in *Turken* or *Schires*. Even if you take a very narrow view of “direct benefits,” Amkor’s job threshold and capital expenditure requirements, the “get,” are supported by a liquidated damages provision of up to \$15 million if Amkor fails to timely meet its obligations, significantly outweighing the maximum attributed value of the City’s interest in the Project Site of \$9 million.

Because both prongs of the Gift Clause are satisfied—and there was never a publicly vested interest in the Project Site in the first place—there is no Gift Clause violation.

## **VI. Conclusion.**

The City has not violated A.R.S. § 9-402(B) and A.R.S. § 9-403(F) because those statutes only apply when a city is selling city-owned real property and that city is not a charter city. As detailed above, the City did not hold title to the Project Site, it merely exercised its right to identify Amkor as the recipient of the Project Site from Vistancia. Accordingly, the City did not sell city-owned land and the statutes do not apply.

The City also did not violate the Gift Clause. The City did not have a vested interest in the Project Site. Regardless, even if there was value attributed to the City’s interest in the Project Site, the City’s “give” was not grossly disproportionate to the “get”. The City’s “give” was at most limited to the exercise of its right to identify Amkor as a “Targeted End User,” thereby triggering the donation of the Project Site from Vistancia to Amkor to generate significant employment and/or significantly further economic development. If the City did not timely identify a Targeted End



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User, Vistancia is obligated to pay the City approximately \$9 million, thus capping the value of the “give” at \$9 million. The City’s “get” was a set of enforceable job creation and capital expenditure commitments tied to a high-impact industrial project and valued for purposes of liquidated damages at up to \$15 million. In this case, under any Gift Clause analysis, the City “give” was not “grossly disproportionate” to the “get”, but was in fact net positive to the City.

Because we prepared this response and provided the attached materials within the timeframe specified in your Request, this is not necessarily a recitation of all the reasons that the City has not violated the above-referenced statutes and constitutional provision. The City expressly reserves the right to supplement this response with further information and additional arguments. We have enclosed the Deed of Trust and Release of Deed of Trust that you requested. The City is happy to provide you with any additional information you think will be useful in your investigation. In addition, we would like an opportunity to meet with you to discuss this analysis before you conclude your investigation into Representative Chaplik’s request.

Sincerely,

FENNEMORE CRAIG, P.C.



Timothy J. Berg

TB

When recorded mail to:

City of Peoria  
City Clerk's Office  
8401 W. Monroe Street  
Peoria, Arizona 85345

ED0716141-11-1-1--  
sarabiam

## DEED OF TRUST

DATE: June 24, 2014

TRUSTOR: VISTANCIA 580 COMMERCIAL, LLC,  
a Delaware limited liability company  
c/o Stratford Land  
5949 Sherry Lane, Suite 1750  
Dallas, Texas 75225

BENEFICIARY: CITY OF PEORIA, ARIZONA,  
an Arizona municipal corporation  
8401 W. Monroe Street  
Peoria, Arizona 85345

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY,  
a California corporation  
P.O. Box 2922  
Phoenix, Arizona 85062

PROPERTY: The real property located in Maricopa County, Arizona, described  
as set forth in Exhibit A attached hereto and incorporated herein  
by this reference (the "Real Property")

This Deed of Trust is made among Trustor, Beneficiary and Trustee who agree as follows:

1. **Grant and Conveyance.** For value received, Trustor irrevocably grants, conveys and assigns to Trustee in Trust, with power of sale, the Real Property, together with all of Trustor's right, title and interest in and to: (a) all buildings, structures, improvements, fixtures and built-in equipment and appliances now or hereafter placed on the Real Property; (b) all present and future leases and all subleases executed with respect to the Real Property; (c) all rents, issues, profits, revenues and income thereof including all revenue, gross or net receipts, payments, and income derived from any business activity conducted by or on behalf of Trustor on the Real Property (hereinafter "Property Income"); (d) all easements, licenses, rights, minerals, oil and gas, appurtenances, abandoned or vacated streets, alleys and rights-of-way, privileges and interests now or hereafter attached to or used in connection with the Real Property; and (e) all water, drainage, irrigation and electrical or water user's rights appurtenant or related to the Real Property (hereinafter together with the Real Property collectively called the "Property"). All components of the Property are deemed encumbered hereby as an entity and are declared to be party of the real estate whether or not physically attached to the Real Property.
2. **Obligations Secured.** This Deed of Trust secures the payment of all amounts owed with respect to the "Payment Obligation" pursuant to Section 6(a) of that certain First Amendment to Amended and Restated Development Agreement for Vistancia in Peoria, Arizona, dated March 5, 2014, and recorded on March 5, 2014, in Instrument No. 2014-0142708, official records of Maricopa County, Arizona (the "DA First Amendment"), among Trustor, Beneficiary, and certain other parties as named therein (the "Obligations Secured").

3. **Payment and Performance of Obligations Secured.** Trustor shall perform and pay (or cause to be performed and paid) when due and before delinquency: (a) all Obligations Secured hereby; (b) all liens, taxes, assessments, fines, impositions and charges of every type or nature affecting the Property; (c) all premiums to maintain insurance required hereunder in force; (d) all rents or charges for water, water delivery, sewer, gas, electricity, telephone and other utilities and services, waste removal, bills for repairs, and assessments on water stock in any way related to the Property; and (e) all costs, fees and expenses of this Trust including, without limitation, all fees of Trustee.
4. **Preservation of Property.** Trustor shall keep the Property in good condition and repair and shall not encumber the Property without Beneficiary's written consent. Trustor shall maintain all water, power and any other rights appurtenant to the Real Property. Trustor shall ensure compliance with all laws, regulations, ordinances, covenants, conditions and restrictions applicable to the use and occupancy of the Property and take all other actions concerning the Property that any prudent owner would take.
5. **Protection by Trustor.** Trustor shall defend, at Trustor's expense, any action or proceeding purporting to affect Trustor's interest in the Property or the liens, rights or powers of Beneficiary or Trustee, or the rights and powers of Beneficiary or Trustee, or seeking to impose any liability on Beneficiary or Trustee because of any act or omission of Trustor. Trustor shall and does hereby agree to indemnify and hold Beneficiary and Trustee harmless from any such action or proceeding.
6. **Protection by Beneficiary or Trustee; Reimbursement.** Beneficiary or Trustee or both of them are authorized at their election to appear in and defend any action or proceeding purporting to affect the Property or the liens, rights or powers of Beneficiary or Trustee; to pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior hereto; and, in exercising any such powers, to pay reasonable expenses, employ counsel, and to pay counsel's reasonable fees and costs. Without obligation to do so, Beneficiary or Trustee may pay any amount or perform any obligation which is required of Trustor hereunder and which is not paid or performed by Trustor within 30 days after receipt of written notice by Trustor or take any other action or incur any other expense to protect the Property and the security hereof. All amounts so paid or expenses so incurred shall bear interest at the rate of 12% per annum, and shall be secured by this Deed of Trust as a lien on the Property. Unless otherwise agreed, such amounts or expenses with interest shall be payable within 10 days after written notice to Trustor requesting such payment. Neither Beneficiary nor Trustee shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Trustor under any lease, declaration or covenant.
7. **Insurance.** Trustor shall maintain commercial general liability insurance against claims for bodily injury, death or property damage occurring in, on or about the Property, naming Beneficiary as an additional insured, such insurance to afford protection of not less than \$1,000,000.00 per occurrence for bodily injury or death and \$500,000.00 for property damage. All such liability insurance policies shall provide that the insurance cannot be invalidated as to the interest of Beneficiary by any act or negligence of any person owning the Property, by foreclosure or other proceedings or notice of sale. The insurance carriers providing all insurance shall be chosen by Trustor in accordance with its customary business practices. All insurance policies and renewals thereof shall be on an "**occurrence**" and not on a "**claims made**" basis. To the extent reasonably available, all such policies shall provide that the insurer thereunder shall not cancel or substantially modify such policies without endeavoring to provide at least 10 days' prior written notice to Beneficiary.
8. **Condemnation.** Any award of damages in connection with any condemnation or taking of or for injury to any of the Property by reason of public use or for damages for private trespass or injury thereto is assigned and shall be paid to Beneficiary to the extent of the Obligations Secured and as further security for all Obligations Secured. Upon receipt of such monies Beneficiary shall hold the same as security for the Obligations Secured and upon performance and payment of the Obligations Secured release to Trustor all such monies then held by Beneficiary.

9. **Inspection.** Beneficiary may make or cause to be made reasonable entries upon inspections of the Property at any time with written notice to Trustor.
10. **Default.** Trustor shall be in default hereunder to the extent permitted by law, if: (a) Trustor fails to perform or pay (or cause to be performed or paid) on time any of the Obligations Secured and such failure continues for 10 days after Trustor's receipt of written notice from Beneficiary; (b) Trustor breaches any other covenant or provision hereof and such failure continues for 30 days after Trustor's receipt of written notice from Beneficiary; (c) Trustor voluntarily files any petition or case under any state insolvency law or any Federal Bankruptcy Code; (d) an involuntary petition or case is filed against Trustor under any state insolvency law or any Federal Bankruptcy Code and the petition remains pending for more than 180 days or the court in which such petition is pending approves it or Trustor is adjudicated a bankrupt or becomes a debtor or debtor in possession in any such proceeding; (e) if the Property be attached or levied upon by any execution, attachment, tax levy or other writ which is not removed or bonded in a manner acceptable to Beneficiary within 180 days thereof; or (f) a receiver, trustee, assignee, conservator, fiscal agent or liquidator be appointed for Trustor or for all or any part of the Property.
11. **Remedies.** Upon any default by Trustor as provided in the preceding Section, Beneficiary may declare all sums secured hereby to be immediately due and payable in full, and may accelerate the Obligations Secured, and Beneficiary shall have the right to cause Trustee to sell the Property or any part thereof as set forth herein and as provided by applicable law. To invoke the power of sale hereunder, Beneficiary or its agent shall execute a Statement of Breach or Nonperformance and deliver the same to Trustee. Trustee shall thereafter record and give notice of Trustee's sale in the manner required by law and, after the lapse of such time as may then be required by law, Trustee shall sell the Property in the manner required by law at public auction at the time and place fixed by it in such notice to the highest bidder for cash in lawful money of the United States, payable at the time provided by applicable law or by a credit bid of Beneficiary. Trustee in its discretion may postpone or continue the sale from time to time and from place to place by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to any purchaser its Deed conveying the Property so sold, but without any covenant or warrant, expressed or implied. Any person, including Trustor, Trustee or Beneficiary, may purchase the Property at such sale. The purchaser at the Trustee's sale shall be entitled to immediate possession of the Property as against Trustor, Trustee or other persons in possession and shall have a right to the summary proceedings to obtain possession provided in A.R.S. §12-1171, *et seq.*, or otherwise, together with costs and reasonable attorneys' fees. Each provision of law relating to deeds of trust is and shall remain applicable to the respective rights and obligations of Trustor, Beneficiary and Trustee, and no term or provision hereof shall limit or restrict such rights or obligations. The omission of any express provision restating the applicable law herein shall not constitute or render the same inapplicable or waive the same. All provisions of the law of the State of Arizona relating to deeds of trust are incorporated by reference herein. After deducting all costs, fees and expenses of Trustee and of this trust and the cost of evidence of title in connection with any Trustee's sale and reasonable attorneys' fees of Beneficiary and Trustee, Trustee shall apply the proceeds of sale to payment of all sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. §33-812 or otherwise. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. In any such judicial foreclosure, Beneficiary shall recover its reasonable attorneys' fees together with all costs and expenses, including without limitation, all court costs, experts' fees and cost of evidence of title. Beneficiary shall have all rights and remedies available to it hereunder and at law or in equity, and all remedies shall be cumulative and may be pursued concurrently or consecutively to the extent permitted by law.
12. **Assignment of Rents.** As additional security, Trustor hereby absolutely assigns, gives to and confers upon Beneficiary the right, power and authority, during the continuance of this Trust, to collect and retain the Property Income, reserving to Trustor the right, prior to any default by Trustor in payment of any Obligation Secured or in performance of any agreement hereunder, to collect and retain such Property Income as it becomes due and payable. Upon any such default Beneficiary may at any time, without notice, either by person, agent or a receiver to be appointed by a court, and without regard to the adequacy of any security for the Obligations Secured or the solvency of the Trustor, enter upon, take possession of

and manage the Property or any part thereof, in his own name sue for or otherwise collect such Property Income, including that past due and unpaid, and apply the same to costs and expenses of operation and collection including receiver's fees and reasonable attorneys' fees of Beneficiary and Trustee and upon any Obligation Secured, in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such Property Income, and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice. Beneficiary expressly shall have all rights provided for in A.R.S. §§33-702B and 33-807 or such similar provisions as may be enacted hereafter.

**13. Reconveyance.**

- a. At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary, without affecting the personal liability of any person for payment and performance of the Obligations Secured hereby, Trustee may reconvey without warranty any part of the Property, consent to the making of any map or plat thereof, join in granting any easement thereon or in any extension agreement or agreement subordinating the lien or charge hereof. Time is of the essence hereof. Acceptance of payment of money after its due date shall not constitute any waiver under this Deed of Trust or Beneficiary's right to require prompt payment of all other sums when due. No extension of time for payment or renewal of the Obligations Secured or the release from any personal liability of any person directly or contingently liable for payment and performance of the Obligations Secured shall affect the lien or priority of this Deed of Trust. The taking by Beneficiary of any other collateral as security for the Obligations Secured hereby shall in no way affect or impair the lien or priority of this Deed of Trust and Beneficiary may resort for the payment and performance of the Obligations Secured to its several securities in such order and manner as Beneficiary may determine. Any forbearance by Beneficiary in exercising any remedy or right hereunder shall not be a waiver of or preclude the subsequent exercise of any such remedy or right.
- b. Upon the first to occur of the following, and payment of Trustee's fees therefor, Trustee shall release and reconvey the Property then held hereunder (and Beneficiary shall take all actions necessary to cause such release and reconveyance to occur):
  - i. Donation of the Property encumbered by this Deed of Trust in accordance with Section 18.1.2 of the Agreement (as defined in the DA First Amendment), provided, however, that if less than the entire 50.0043 acres of the Property is involved in a particular donation, then this Deed of Trust shall be released only with respect to the portion thereof that is then being donated and shall remain in effect as to the balance of the Property encumbered hereby; or
  - ii. Full payment to Beneficiary of the debt arising from the Payment Obligation and occurrence of the Deadline Date (as defined in the DA First Amendment) without "targeted end users" (as defined in the DA First Amendment) having been obtained for the entire fifty (50) acres to be donated pursuant to Section 18.1.2 of the Agreement.

**14. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Trustor provided for in this Deed of Trust shall be given by mailing such notice by certified mail, return receipt requested, addressed to Trustor at the above address or at such other address as Trustor may designate by Request for Notice delivered to Beneficiary as provided herein, and (b) any notice to Beneficiary shall be given by certified mail, return receipt requested, to Beneficiary's address stated herein or to such other address as Beneficiary may designate by notice to Trustor as provided herein. Any notice provided for in this Deed of Trust shall be deemed to have been given to Trustor or Beneficiary when given in the manner designated herein. Unless a Request for Notice is recorded as provided by law, notice of any Trustee's sale shall be sent solely to Trustor's address set forth herein.

**15. Parties Bound.** This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, personal representatives, administrators, executors, successors and assigns. In this

Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter and conversely and the singular number includes the plural and conversely. The term "**Trustor**" shall mean all persons named as Trustor herein, whether one or more, and Trustor's obligations shall be joint and several. "**Trustee**" shall include all successor trustees. Any Trustor that has signed this Deed of Trust as a surety or accommodation party or that has subjected its property to this Deed of Trust to secure the debt of another expressly waives the benefits of A.R.S. §§12-1641, 12-1642 and 44-142 and Ariz. R. Civ. P. 17(f) or such similar provisions as may be enacted or adopted hereafter.

16. **Trustee.** Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee may, but is not obligated to, notify any party hereto of any pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee. Beneficiary may appoint a successor Trustee in the manner prescribed by law. Trustor and beneficiary authorize Trustee, in the event any demand or notice is made or tendered to it concerning this Trust or the Property, to hold any money and documents and to withhold action or performance until an action shall be brought in a court of competent jurisdiction to determine the rights asserted or the propriety of the demand, notice or action requested and Trustee shall be without liability or responsibility for awaiting such court action. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all its predecessor's title, estate, rights, powers and duties. Trustee may resign at any time by mailing or delivering notice thereof to Beneficiary and Trustor and, having so resigned, shall be relieved of all further liability and responsibility to Trustor, Beneficiary or otherwise hereunder. Trustee shall not be liable for any action taken in its discretion and in good faith or upon advice of counsel or upon any information supplied or direction given by Beneficiary.
17. **Governing Law; Severability.** The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Real Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable.
18. **Integration.** This instrument, together with the DA First Amendment, constitutes the entire understanding of the parties, each of whom has been, or has had the opportunity to be, represented by counsel of each party's choosing, and have been bargained for and are negotiated agreements that set forth the entire agreement with respect to the terms thereof, and there are no oral or written statements, representations, agreements or understandings which modify, amend or vary, or purport to modify, amend or vary any of the terms of such documents.
19. **Security Intended.** Notwithstanding any provision hereof to the contrary, the parties intend that this document constitute security for the payment and performance of the Obligations Secured as provided elsewhere herein, and shall be a "**deed of trust**" as defined in A.R.S. §33-801. If despite that intention a court of competent jurisdiction shall determine that this document does not qualify as a "**trust deed**" or "**deed of trust**" within the meaning and purview of Chapter 6.1, Title 33, Arizona Revised Statutes, then, ab initio, this instrument shall be deemed a realty mortgage under A.R.S. §33-702, and shall be enforceable as such, the Trustor shall be deemed a "**mortgagor**," the Beneficiary shall be deemed a "**mortgagee**," the Trustee shall have no capacity but shall be disregarded and all references to the "**Trustee**" herein shall be deemed to refer to the "**mortgagee**" to the extent not inconsistent with interpreting this instrument as though it were a realty mortgage. As a realty mortgage, Trustor as mortgagor shall be deemed to have conveyed the Property ab initio to the Beneficiary as mortgagee, such conveyance as a security to be void upon condition that Trustor pay and perform all its Obligations Secured hereby.

[NO FURTHER TEXT ON THIS PAGE - SIGNATURE FOLLOWS]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust effective as of the date first set forth above.

TRUSTOR:

VISTANCIA 580 COMMERCIAL, LLC, a Delaware limited liability company

By: SLF III – VPMM, LLC,  
a Texas limited liability company,  
its managing member

By: SLF III – Vistancia, LLC,  
a Texas limited liability company,  
its sole and managing member

By: Stratford Land Fund III, L.P.,  
a Delaware limited partnership,  
its sole and managing member

By: Stratford Fund III GP, LLC,  
a Texas limited liability company,  
its General Partner

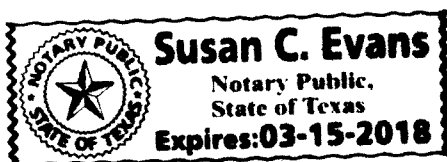
By: [Signature]  
Name: S. Randall Neigre  
Title: Vice President

STATE OF TEXAS       )  
                                  ) ss.  
County of Dallas       )

The foregoing instrument was acknowledged before me, the undersigned Notary Public, this 27th day of June, 2014, by S. Randall Neigre the Vice President of Stratford Fund III GP, LLC, a Texas limited liability company, the General Partner in Stratford Land Fund III, L.P., a Delaware limited partnership, the sole and managing member of SLF III – Vistancia, LLC, a Texas limited liability company, the sole and managing member of SLF III – VPMM, LLC, a Texas limited liability company, the managing member of Vistancia 580 Commercial, LLC, a Delaware limited liability company, for and on behalf thereof.

[Signature]  
Notary Public

My commission expires:





BENEFICIARY:

CITY OF PEORIA, ARIZONA,  
a municipal corporation

By: Bob Barrett  
Bob Barrett, Mayor

Attest:

Rhonda Geriminsky  
Rhonda Geriminsky, ~~Interim~~ City Clerk



Approved as to form:

Stephen M. Kemp  
Stephen M. Kemp, City Attorney

**EXHIBIT A**  
**Description of the Real Property**

[see 3 page attachment]

*Wood, Patel & Associates, Inc.*  
(602)335-8500  
www.woodpatel.com

December 20, 2013  
WP# 134081  
Page 1 of 3  
See Exhibit "A"

**PARCEL DESCRIPTION**  
**Vistancia**  
**University/Student Housing**

A parcel of land lying within Section 25, Township 5 North, Range 1 West, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the north quarter corner of said section, a 2 ½-inch General Land Office (G.L.O.) brass cap stamped ¼ S24 S25 1922, from which the northeast corner of said section, a 2 ½-inch G.L.O. brass cap stamped T5N R1W R1E S24 S25, bears South 89°40'20" East (basis of bearing), a distance of 2566.59 feet;

**THENCE** along the north-south mid-section line, South 00°08'33" West, a distance of 3132.84 feet, to a point of intersection with a non-tangent curve, and the **POINT OF BEGINNING**;

**THENCE** southeasterly along said curve, having a radius of 11274.39 feet, concave northeasterly, whose radius bears North 30°24'09" East, through a central angle of 06°10'49", a distance of 1216.12 feet, to a point of intersection with a non-tangent line;

**THENCE** South 11°17'15" West, a distance of 334.45 feet, to the beginning of a curve;

**THENCE** southerly along said curve, having a radius of 1881.00 feet, concave westerly, through a central angle of 07°24'09", a distance of 243.02 feet, to the curve's end;

**THENCE** South 18°41'24" West, a distance of 70.78 feet, to a point of intersection with a non-tangent curve;

**THENCE** westerly along said curve, having a radius of 330.00 feet, concave southerly, whose radius bears South 12°48'18" West, through a central angle of 13°12'51", a distance of 76.11 feet, to the curve's end;

**THENCE** South 89°35'26" West, a distance of 1450.86 feet, to the beginning of a curve;

**THENCE** northwesterly along said curve, having a radius of 400.00 feet, concave northeasterly, through a central angle of 58°29'07", a distance of 408.30 feet, to the curve's end;

**THENCE** North 31°55'27" West, a distance of 372.13 feet, to the beginning of a curve;

**THENCE** northwesterly along said curve, having a radius of 300.00 feet, concave southwesterly, through a central angle of 14°56'10", a distance of 78.20 feet, to the curve's end;

**THENCE** North 46°51'36" West, a distance of 45.16 feet to the east line of Tract B as shown on the Map of Dedication (M.O.D.) of El Mirage Road, Ridgeline Road and Westward Skies Drive, recorded in Book 719 of Maps, page 34, Maricopa County Records (M.C.R.);

**THENCE** along said east line, North 43°08'24" East, a distance of 307.09 feet, to the beginning of a curve;

**THENCE** northeasterly along said curve, having a radius of 5099.00 feet, concave northwesterly, through a central angle of 08°33'59", a distance of 762.35 feet, to the curve's end;

**THENCE** North 34°34'25" East, a distance of 98.75 feet, to a point of intersection with a non-tangent curve;

**Parcel Description**  
**Vistancia**  
**University/Student Housing**

December 20, 2013  
WP# 134081  
Page 2 of 3  
See Exhibit "A"

**THENCE** leaving said east line, southeasterly along said curve, having a radius of 8308.20 feet, concave northeasterly, whose radius bears North  $34^{\circ}49'28''$  East, through a central angle of  $02^{\circ}39'12''$ , a distance of 384.76 feet, to a point of intersection with a non-tangent curve;

**THENCE** southeasterly along said curve, having a radius of 11274.39 feet, concave northeasterly, whose radius bears North  $31^{\circ}18'55''$  East, through a central angle of  $00^{\circ}54'45''$ , a distance of 179.58 feet, to the **POINT OF BEGINNING**.

Containing 50.0043 acres, or 2,178,186 square feet of land, more or less.

Subject to existing rights-of-way and easements.

This parcel description is based on the Map of Dedication of El Mirage Road, Ridgeline Road, & Westward Skies Drive, recorded in Book 719, page 34, M.C.R. and other client provided information. This parcel description is located within an area surveyed by Wood, Patel & Associates, Inc. during the month of July, 2013. Any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\2013 Parcel Descriptions\134081 Vistancia University Student Housing L04 12-20-13.docx



EXPIRES 03-31-14

NORTH 1/4 COR SEC. 25, T.5N., R.1W.  
FD. 2-1/2" G.L.O. BRASS CAP STAMPED  
1/4 S24 S25 1922  
POINT OF COMMENCEMENT

NE COR SEC. 25, T.5N., R.1W.  
FD. 2-1/2" G.L.O.  
BRASS CAP STAMPED  
T5N R1W R1E S24 S25  
S89°40'20"E 2566.59'

VISTANCIA SOUTH LLC  
APN 503-99-942B  
DOC NO. 09-1058259, M.C.R.

VISTANCIA 580 COMMERCIAL LLC  
APN 503-99-942D  
DOC. NO. 09-0812805, M.C.R.

POINT OF  
BEGINNING

VISTANCIA SOUTH LLC  
APN 503-99-942C  
DOC NO.  
09-1058259, M.C.R.

VISTANCIA SOUTH LLC  
APN 503-99-942A  
DOC NO.  
09-1058259, M.C.R.

EL MIRAGE ROAD

EX. 160' R/W  
TRACT B PER  
BOOK 719,  
PAGE 34, M.C.R.

PROPOSED WESTWARD SKIES  
DRIVE ALIGNMENT

S0°08'33"W  
3132.84'

1



EXPIRES 03-31-14

## EXHIBIT "A"

VISTANCIA  
12/20/13  
134081

PAGE 3 OF 3  
NOT TO SCALE

N: \\Vistancia\2013\134081\Survey\Legal\4081L04  
UNIVERSITY/STUDENT HOUSING

**WOOD/PATEL**

2051 West Northern  
Phoenix, AZ 85021

Phone: (602) 335-8500

Fax: (602) 335-8580

PHOENIX • MESA • TUCSON

WHEN RECORDED RETURN TO:

Berens Blonstein PLC  
7033 E. Greenway Parkway, Suite 210  
Scottsdale, AZ 85254  
Attention: Marc D. Blonstein

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**RELEASE OF DEED OF TRUST AND FULL RECONVEYANCE**

Vistancia 580 Commercial, LLC, a Delaware limited liability company (“**Vistancia 580**”), executed that Deed of Trust dated June 24, 2014, in favor of the City of Peoria, Arizona (“**Beneficiary**”), which was recorded in the official records of Maricopa County, Arizona (the “**Official Records**”) on July 16, 2014, in Instrument No. 2014-0465321, as joined by Vistancia South, LLC, a Delaware limited liability company (“**Vistancia South**”) pursuant to that Ratification, Consent and Joinder (Deed of Trust) dated July 7, 2015, and recorded in the Official Records on July 13, 2015, in Instrument No. 2015-0501879, and as further amended by Beneficiary and Vistancia Development LLC (as successor owner of the real property subject to the Deed of Trust) (“**Trustor**”), in that certain First Amendment to Deed of Trust dated March 1, 2024 and recorded on March 5, 2024, in Instrument No. 2024-0113619 of the Official Records (collectively, the “**Deed of Trust**”).

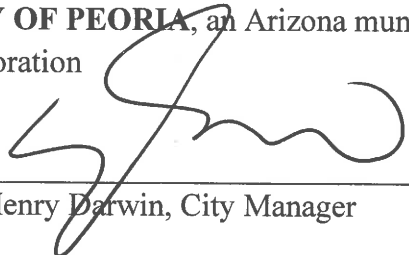
Trustor has donated the Property encumbered by the Deed of Trust in accordance with Section 18.1.2 of the Agreement (as defined in the Deed of Trust). Accordingly, pursuant to Section 13(b)(i) of the Deed of Trust and A.R.S. § 33-707, Beneficiary does hereby fully release the Deed of Trust.

**[SIGNATURE PAGE APPEARS FOLLOWING PAGE]**


Dated: March 4, 2024

**BENEFICIARY:**

**CITY OF PEORIA**, an Arizona municipal  
corporation

By:   
Henry Darwin, City Manager

**ATTEST:**

  
Agnes Goodwine, City Clerk



**APPROVED AS TO FORM:**

  
Emily Jurnu, City Attorney