
MEMORANDUM OF UNDERSTANDING
City of Mesa, Arizona | Sunridge Properties Inc.
May 6, 2013

RECITALS

- A. The parties acknowledge that this MOU and any subsequent agreements are intended to promote Sunridge Hotel development around the City of Mesa Chicago Cubs Stadium and Spring Training Complex (see attached Exhibit A) planned for the northwest corner of Rio Salado Street and Dobson Rd in Mesa, Arizona.
- B. This sale is predicated on Sunridge's intention to quickly construct one or more hotels at this location. This is not a land-banking agreement whereby Sunridge can purchase the land and hold it as vacant land.
- C. Before any Agreement based on this MOU may be executed, the City of Mesa must negotiate an amendment of one or more existing agreements it has executed with the Cubs so that it may sell parcels of land to Sunridge for immediate construction of one or more hotels on the property.

UNDERSTANDINGS OF THE PARTIES

1. **Parties to Memorandum.** The Parties to this Memorandum of Understanding ("MOU") are the City of Mesa, Arizona, an Arizona municipal corporation ("City") and Sunridge Properties Inc. ("Sunridge").
2. **Background.** Sunridge Properties Inc., a Mesa based company, has constructed and now owns more than 15 hotels in the Southwest United States. Sunridge has also previously constructed and owned Mesa hotels. Sunridge has told the City that it has significant interest in building a Marriott franchised SpringHill Suites hotel in the Wrigleyville West development area, if the City makes certain Spring Training, Riverview Park and Wrigleyville West improvements. The Wrigleyville West development area is located between the City of Mesa Chicago Cubs Spring Training Facility and Riverview Park; part of the larger development called the Spring Training Site, depicted below. The City believes that the hotel development at Wrigleyville West can provide significant economic benefits and community amenities for the City's residents, businesses and visitors. The City has discussed with Sunridge an agreement where Sunridge will construct, own and operate a Marriott franchised SpringHill Suites hotel at the Wrigleyville West development site. Any such development will require some modification

of agreements already executed by the Cubs and the city and purchase of the property from the City.

3. **Memorandum of Understanding.** The Parties acknowledge that this document is a “Memorandum of Understanding,” and is neither an agreement nor contract between them, nor an offer from the City that invites acceptance by Sunridge. It is intended to be an outline of certain material terms on which the Parties have found preliminary agreement and which form the basis for further discussions and negotiations, with the Parties understanding that: (a) such terms are not necessarily complete and require further detail and explication, and (b) there are other material terms that are essential to any agreement between the Parties that have not been included in this Memorandum. This Memorandum is not binding upon the Parties or legally enforceable, imposes no enforceable obligations upon the Parties, and does not grant any rights to or in favor of any Party as against the other. Each Party waives any and all rights that it may have to attempt to enforce the terms of this Memorandum as an agreement or a contract against the other Party. In addition to the foregoing, Sunridge acknowledges that any ultimate agreement with the City regarding the sale and development of the parcel requires the approval of the City Council. The approval of this Memorandum by the City Council shall not be, or be deemed to be, an approval of an agreement between the City and Sunridge with respect to the sale or use of the Property, more particularly described on Exhibit B, by Sunridge.

4. **Outline of Certain Material Terms.** Subject to the foregoing, the Parties set forth the following material terms to be included in a future enforceable agreement between them:

4.1 **Sale of Property.**

4.1.1 City Intentions. City intends to sell to Sunridge the Property described on Exhibit A (the “Property”) and which will be more particularly described in a subsequent purchase and sale agreement (the “Purchase Agreement”). The Property will be graded and cleared of any dumped materials.

4.1.2 Sunridge Intentions. Sunridge intends to purchase the Property from City. Sunridge will purchase the Property in an “as is” condition and subject to a condition that the Property will revert to the City upon Sunridge’s failure to satisfy the Construction Deadlines set forth elsewhere in this MOU or any subsequent Purchase Agreement.

4.1.3 Purchase Price. The Parties have established that the purchase price for the Property will be \$250,000, due at title transfer. The Parties have further established that the City will sell a second similar parcel located at the Spring Training Site, depicted on Exhibit B to Sunridge for the same \$250,000 so long as Sunridge constructs the second

hotel in conformance with the applicable provisions of this MOU and any superseding Purchase Agreement executed by the Parties. The purchase price for any potential additional parcels of land will not be subject to this provision and will be subject to future negotiations of the Parties.

4.2 Description of Hotel and Associated Amenities. The following minimum requirements shall be referred to collectively in this MOU as a “Hotel” or “Hotels:”

4.2.1 Minimum Number of Rooms: Hotel shall be a minimum of 100 rooms, 3 star/diamond level, and a minimum of four stories, excluding parking levels. Hotels under 100 rooms may be permitted if hotel is listed as a full service, luxury or higher rated hotel. All hotels shall have interior corridors to rooms.

4.2.2 Hotel Amenities: Hotels shall contain amenities that will be generally commensurate with existing Comparable Hotels, including a market that offers beer and wine for sale, pool, fitness center and meeting space.

4.2.3 Hotel Quality: Hotels shall be consistent in overall quality (including materials and finishes) and range of facilities and services at Marriott “upper mid-scale” level as defined by Smith Travel Industry 3-star level and as further depicted in that book entitled: “Springhill Suites/Marriott, a copy of which is on file at the office of the Mesa City Clerk, 20 East Main Street, Mesa, AZ 85211.

4.2.4 Urban Form: Sunridge will submit for Owner’s approval, which will not be unreasonably withheld, conceptual elevations establishing an enhanced urban aesthetic for the proposed SpringHill Suites prior to execution of a future purchase agreement or development agreement.

4.2.5 Sunridge commitment: Sunridge commits that the proposed SpringHill Suites hotel will meet or exceed the Hotel or Hotels minimum requirements. Sunridge additionally agrees that any and all future Sunridge owned hotels, at the Riverview Site, shall meet or exceed the same Hotel minimum requirements as stated in this MOU.

4.3 Construction and Timing.

4.3.1 Submittal of Plans to City: Sunridge must submit complete Hotel plans to City for review no later than September 15, 2013. City agrees to provide a customized plan review schedule upon consultation with Sunridge. City must complete final review of the plans by October 31st, subject to any customized review schedule agreed to by the Parties.

4.3.5 Commencement of Construction: Sunridge must begin construction of the Hotel

Improvements no later than December 31, 2013. For purposes of this MOU, beginning of construction will occur when Sunridge pours footings for a hotel on the Property.

4.3.2 **Completion of Construction:** Sunridge must complete construction of the Hotel Improvements no later than May 1, 2015.

4.3.3 **Construction Deadlines:** If City agrees to release additional property and Sunridge begins constructing one or more additional Hotels on the Site, Sunridge must complete construction of each of those additional Hotels within 24 months from the date the parcel(s) are purchased from City. The City's Manager, at his sole discretion, may grant extensions to the construction deadlines of a total of no more than 24 months.

4.3.4 **Construction Fees and Taxes:** Sunridge or Hotel(s) shall pay all applicable plan review, permit, property, sales, bed, use, and construction sales taxes at the normal payment time.

4.4 **Termination:** If Sunridge: (i) has not commenced construction within 12 months of purchasing the land; or (ii) fails to complete construction within 24 months, or such other date as may have been extended under terms of section 4.3.7 of this MOU:

4.4.1 The Purchase Agreement will terminate 24 months from execution date of the Agreement.

4.4.2 City will have the right, but not obligation to re-acquire or re-purchase all of any portion of uncompleted parcels. The cost of this acquisition will be the price paid by Sunridge to acquire the land plus the net value of any improvements completed by Sunridge.

4.4.3 City's right to re-acquire the land will be included in the deed transferring the property.

4.4.4 **Sunset.** This MOU shall be deemed automatically terminated, and without further act or notice required, on June 30, 2013 (or such later date as the Parties may hereafter mutually agree in writing). Any amendment to this MOU to extend such date may be executed on behalf of the City by its City Manager.

4.5 **Term.**

The term of any Purchase Agreement between the Parties shall be as set forth in section 4.4.1 of this MOU.

4.6 **Exclusive Development Period:** As long as this MOU and any subsequent agreement

superseding this MOU is in effect, and thereafter if Sunridge has developed the first Hotel parcel, the City will restrict additional hotel openings at the Spring Training Site (depicted and described in Exhibit C) for a period of six (6) months from date of Completion of Construction. For purposes of this section, "Completion of Construction" will occur when the City issues either a temporary or final certificate of occupancy for a first Hotel or other subsequent Hotels built pursuant to this MOU.

4.6.1 If Sunridge attains Completion of Construction for any additional Hotels at the Spring Training Site, the Exclusive Development Period will be re-calculated. The Exclusive Development Period will be calculated as follows: an extended six month period will begin at each successive Completion of Construction date and will end six months after that date. This process to extend the Exclusive Development Period will only apply to additional Hotels developed by Sunridge during the Term of the Purchase Agreement.

4.6.2 Any additional Hotel must meet or exceed the standards set forth in section 4.2 of this MOU. Any additional Hotels are subject to same Construction Deadlines as noted previously in this MOU.

4.6.3 Right of First Refusal: Upon receipt of written offer from outside hotel/hotel development group, and payment of refundable earnest money in the amount of \$5,000, the City shall contact Sunridge Properties and notify them of the written offer. Upon receipt of the written offer, Sunridge shall have 30 days from City notice to notify the City of their decision to exercise their option to purchase or to decline. If Sunridge notifies the City of their intention to acquire and build hotel, then Sunridge shall open an escrow account within 10 business days and deposit \$5,000. Escrow amount will apply to acquisition amount. If City has failed to reach agreement with any party within 90 days of Sunridge's decline of offer or opening of escrow account, City may cease negotiations and entertain offers from any party to sell the property in question.

4.7. Consideration and Other Benefits to the City. In addition to the direct consideration provided by Sunridge, Marriot will provide the following economic benefits to City:

4.7.1 Name of Hotel: When naming any Hotel, Sunridge may not use (or permit the use of) of a name that is or includes the name of a municipality in Arizona other than "Mesa," "Mesa – Phoenix," or "Mesa-Tempe" without the concurrence of City, at City's sole discretion. However, Sunridge has no obligation to include the name "Mesa" (or any other geographic place name) in the name of the hotel.

4.7.2 Signage: Sunridge may construct and install signage in conformance with a site specific city approved Signage Plan and in compliance with the approved Riverview PAD, Comprehensive Sign Plan and City/Cubs Option Agreements.

5. **Further Negotiations**. By their execution of this MOU, the Parties confirm that this is not an agreement between them, but are authorizing their attorneys and representatives to pursue further negotiations regarding the subject matter of this MOU, in accordance with the terms and conditions set forth in this MOU, in order to produce a binding agreement, subject to approval by the City Council. Additionally, any future development agreement based on the terms in this memorandum of understanding must be subject to and may not take effect unless and until appropriate modifications are made to existing agreements between City and the Chicago Cubs consistent with the terms of this MOU.

Sunridge Properties, Inc.

The City of Mesa, Arizona, an Arizona municipal corporation

By: _____

By: _____

Its: _____

Its: _____

City Clerk

Attested: _____

City Attorney

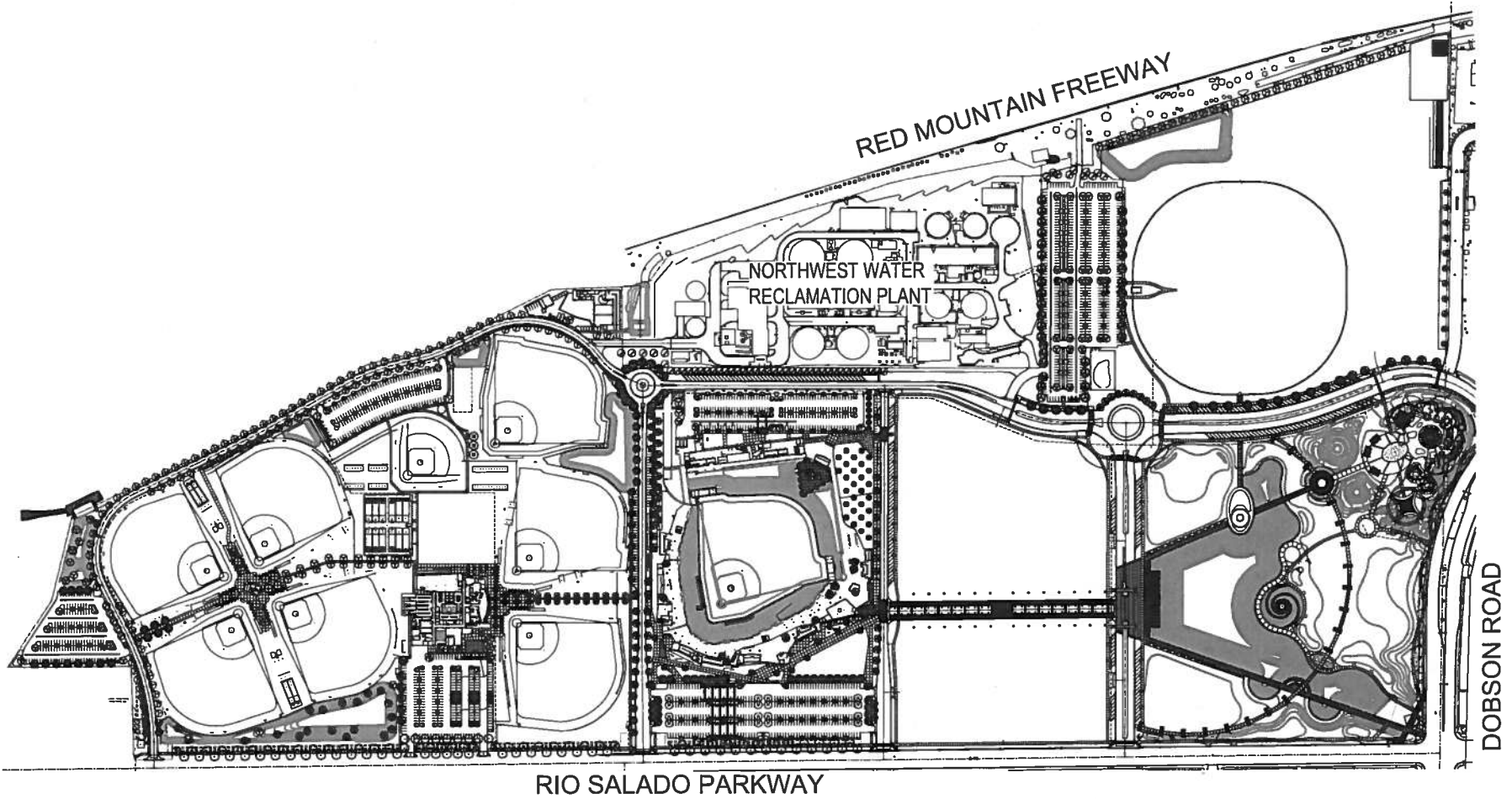
Approved: _____

As to Form

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Exhibit "A" City of Mesa Spring Training Facility and Riverview Park



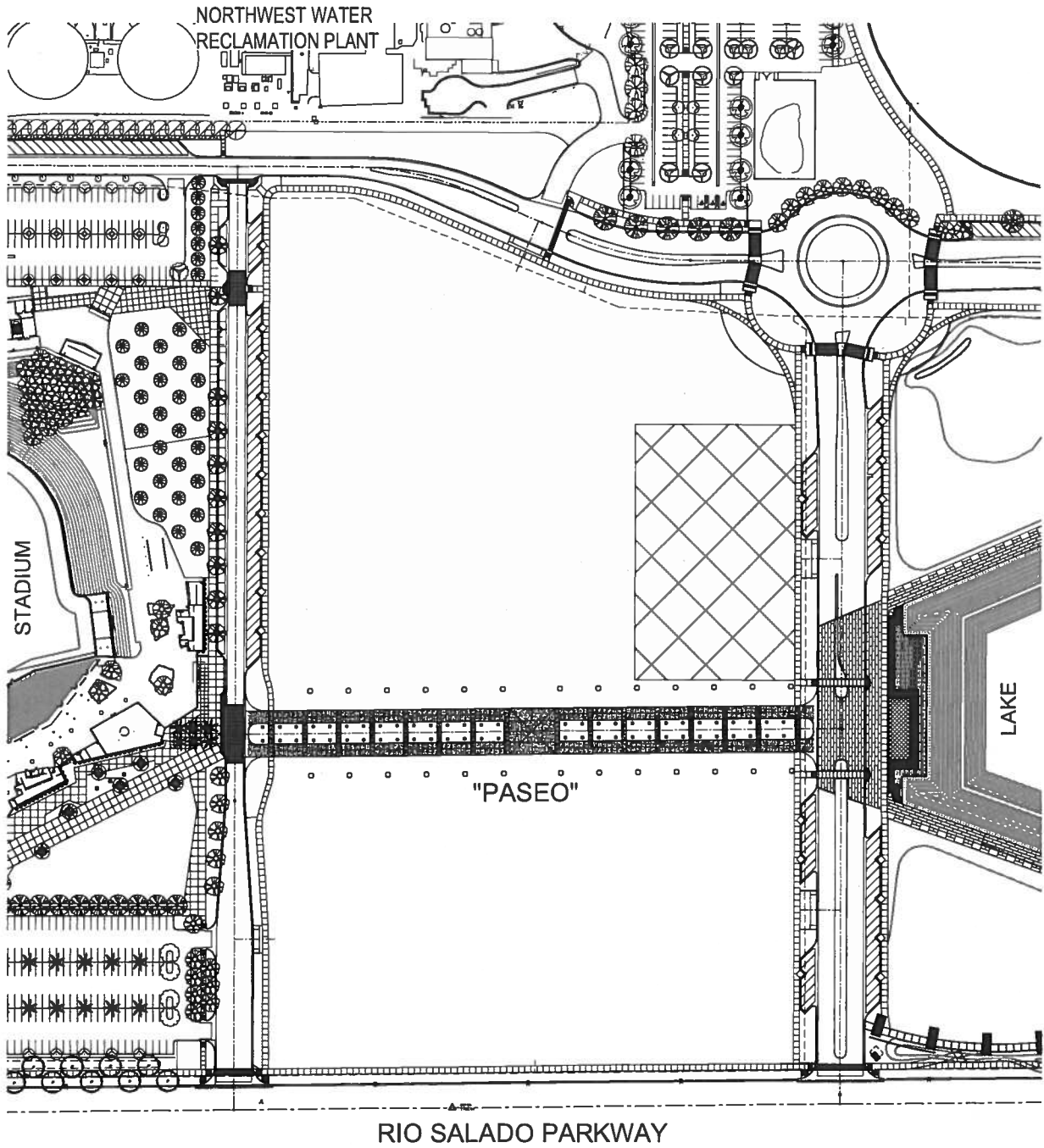
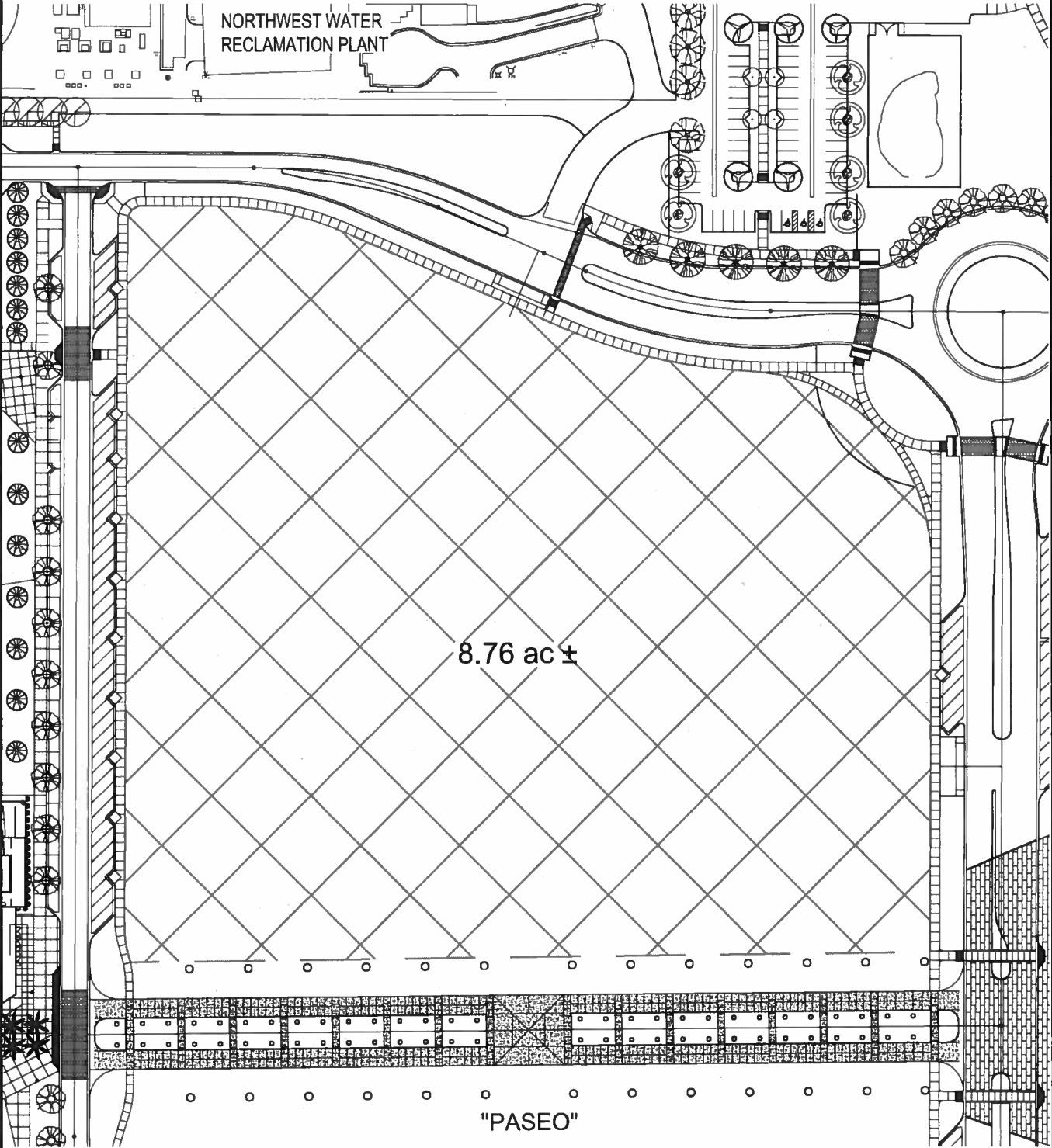




Exhibit "C" Hotel Development Area



DATE SAVED: 3/28/13 1:10:55 (C10554) CHICAGO CUBS SPRING TRAINING FACILITY & RIVERVIEW SITE DEVELOPMENT\DESIGN DOCUMENTS\CAD\EXHIBITS\HOTEL DEVELOPMENT AREA EXHIBITS.DWG