

# **Threshold Project**

## **Explanation of Documents**

The documents to be reviewed and discussed include (i) an Operating Agreement of the Threshold Project LLC, (ii) a Purchase Option Agreement and Escrow Instructions, (iii) Articles of Incorporation and Bylaws of the Threshold Foundation, and (iv) a Letter of Intent for Terms of Disposition and Development Agreement. In reviewing these documents, please consider the following:

- I. Operating Agreement of the Threshold Project LLC. Each of the property owners will join in forming this entity.
  - A. The LLC will be managed by a three member Management Committee elected by a majority of the members.
  - B. The Management Committee will hire an Executive Director who will manage the daily affairs of the LLC.
  - C. Profits of the LLC will be distributed equally among the members. However, note that the Option Agreement provides that each property owner will receive fair market value for its land based upon existing conditions plus a proportionate share (based upon each property owner's share of the land and easement area) of any increase in value attributable to consolidation of the land, rezoning, planning and elimination of the restriction limiting use of the property to "student housing purposes as reasonably approved by ASU."
  - D. Each property owner will contribute to the Threshold Project LLC (i) \$2,000 in cash, plus (ii) an option (as described below) to purchase its property.
- II. Purchase Option Agreement and Escrow Instructions.
  - A. Each property owner will receive fair market value for its property.
    1. This amount will be paid in cash (or credits to be used to construct a new lodge facility) at the time the option is exercised.
    2. Fair market value is determined based upon current site conditions, e.g., non-contiguous parcels, current zoning, deed restriction, etc.
    3. In the event the parties cannot agree on value, a baseball style arbitration is used, i.e., each party will specify their value and the arbitrator will choose one of the two values.

- B. Each property owner will receive consideration in addition to the fair market value of its property.
  - 1. Each property owner will receive a Subordinated Note in an amount equal to its share of the increase in value attributable to consolidation of the properties, zoning the properties, planning the project and removing the deed restriction, if successful, over the cumulative value of the respective properties as determined in II A above.
    - a. This “lift” will be determined by appraisal.
    - b. This amount will be allocated among the property owners based upon the ratio the gross square footage of their parcel plus their share of the easement property bears to the total gross square footage of all properties plus the gross square footage of the easement areas.
    - c. This Note will be subordinated to the debt incurred to construct the project and any land lease payments due ASU.
  - 2. Each property owner will receive the right to appoint one member to the Board of Directors of the Threshold Foundation.
- III. Threshold Foundation. The property owners will join in forming a non-profit foundation with a purpose of providing student scholarships, grants, loans and other higher education financial support to students and organizations related to ASU.
  - A. The property owners will have the right to appoint a majority of the members of the Board of Directors.
  - B. Each property owner will have the right to appoint one member of the Board of Directors.
- IV. Letter of Intent for Development Agreement.
  - A. The property owners have entered into an Exclusive Negotiating Agreement for the development of the site with The Pierce Company.
  - B. Attached is the Letter of Intent proposed by The Pierce Company.