

RESOLUTION NO. 15-1724

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING, AUTHORIZING AND DIRECTING THE EXECUTION OF THE FOURTH AMENDMENT TO THE AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR PRADERA; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT INTENT OF RESOLUTION AND FOURTH AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, between Pradera Partners 160, LLC, a Washington limited liability company (“Owner”) owns approximately 160 acres generally located at the northwest corner of Citrus Road and Lower Buckeye Road within the City of Goodyear, as more specifically described in Exhibit A attached hereto (the “Property”); and

WHEREAS, the Property is located within the West Goodyear Central Planning Area (“WGCPA”); and

WHEREAS, Owner’s predecessor in interest to the Property, was a member of a group of owners of properties in the WGCPA (“WGCPA Properties”) that has been working with the City since 2005 to facilitate development in the WGCPA, the members of this group are known as “IDG Members”; and

WHEREAS, the City, Owner and certain of the original IDG Members entered into amended and restated development agreements, one of the purposes of which was to facilitate the timely and orderly development of the WGCPA Properties; and

WHEREAS, Owner and the City of Goodyear (the “City”) entered into that certain Amended & Restated Development Agreement for Pradera dated July 10, 2013 recorded in the official records of Maricopa County, Arizona as Record No. 2013 0631560 (“Pradera Amended & Restated Development Agreement”), which sets forth certain obligations and commitments of the Parties relative to the development of the Property; and

WHEREAS, the Pradera Amended & Restated Development Agreement included a deadline for the recordation of the existing final plat for the Property; and

WHEREAS, Owner and City entered into that certain First Amendment to the Amended & Restated Development Agreement dated December 3, 2013, recorded in the official records of Maricopa County, Arizona as record 2013 066174 (the “First Amendment”), which amended terms related to Owner’s obligations with respect to cost recovery payments for the construction of regional water and sewer lines that benefitted multiple properties within the WGCPA; and

WHEREAS, Owner and the City entered into that certain Second Amendment to the Amended & Restated Development Agreement for Pradera dated May 19, 2014 recorded in the official records of Maricopa County, Arizona as Record No. 2014 0345308 (the “Second

Amendment”), which, amended terms related to the deadline for recording existing approved final plats for the Property; and

WHEREAS, Owner and the City entered into that certain Third Amendment to the Amended & Restated Development Agreement for Pradera dated June 16, 2015 recorded in the official records of Maricopa County, Arizona as Record No. 2015 0456921 (the “Third Amendment”), which, amended terms related to the deadline for recording existing approved final plats for the Property; and

WHEREAS, under the terms of the Pradera Amended & Restated Development Agreement, as amended, the existing approved final plat for Pradera will terminate if it is not recorded by October 31, 2015; and

WHEREAS, the City is still interested in seeing development occur in the West Goodyear Central Planning Area, including the Property; and

WHEREAS, City staff and certain West Goodyear Properties’ owners, developers and/or their representatives are working on a new development strategy for the WGCPA Properties that is intended to spur the development of the WGCPA Properties; and

WHEREAS, the outline of the strategy has been presented to Council during a work session, and the intent of the Parties is to present amended and restated development agreements for the WGCPA Properties to Council in January 2016; and

WHEREAS, any amended and restated development agreement for Pradera will include an extension of time for the recordation of currently existing approved final plat for Pradera; and

WHEREAS, in the interim and in order to allow City staff and West Goodyear Properties’ owners, developers, and/or their representatives to work through the details of the amended and restated development agreements for the WGCPA Properties, the Parties desire to amend the Pradera Amended & Restated Development Agreement to extend the deadline for recording the currently existing approved final plat for Pradera to January 31, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Goodyear, Maricopa County, Arizona, as follows:

Section 1. The Mayor and Council of the City of Goodyear hereby approve the Fourth Amendment to Amended & Restated Development Agreement for Pradera between Pradera Partners 160, LLC, a Washington limited liability company and the City of Goodyear, an Arizona municipal corporation attached hereto as Exhibit B (the “Fourth Amendment”); and

Section 2. The City Attorney is hereby authorized, at his discretion, to make non-substantive modifications to the Fourth Amendment prior to its execution; and

Section 3. The City Manager is hereby authorized and directed to execute the Fourth Amendment to Amended & Restated Development Agreement for Pradera between Pradera Partners 160, LLC, a Washington limited liability company and the City of Goodyear, an Arizona municipal corporation attached hereto as Exhibit B as modified by the City Attorney; and

Section 4. The Fourth Amendment is intended to be a development agreement pursuant to A.R.S. § 9-500.05.

Section 5. The City Manager or his designee is hereby authorized and directed to take any and all actions and to execute all documents necessary to carry out the intent of this Resolution and the terms of the Fourth Amendment.

Section 6. That this Resolution shall become effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona this 5th day of October, 2015.

Georgia Lord, Mayor

ATTEST:

Maureen Scott, City Clerk

APPROVED AS TO FORM:

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Maureen Scott, being the duly appointed, qualified and acting City Clerk of the City of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 15-1724, is a true, correct and accurate copy of Resolution No. 15-1724, passed and adopted at a Regular Meeting of the Council of the City of Goodyear, Maricopa County, Arizona, held on the 5th day of October, 2015, at which a quorum was present and, by a _____ vote, _____ members voted in favor of said Resolution.

Given under my hand and sealed this ____ day of _____, 2015.

Maureen Scott, City Clerk

Seal

EXHIBIT A

RESOLUTION NO. 15-1724

Legal Description of Pradera

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 2 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 15;

THENCE SOUTH 89 DEGREES 55 MINUTES 30 SECONDS EAST ALONG THE MONUMENT LINE OF LOWER BUCKEYE ROAD, A DISTANCE OF 2641.59 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 15;

THENCE NORTH 00 DEGREES 00 MINUTES 59 SECONDS WEST ALONG THE NORTH-SOUTH CENTER LINE OF SAID SECTION 15, A DISTANCE OF 33.00 FEET TO THE SOUTHWEST CORNER OF THE TRACT HEREIN DESCRIBED AND THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTH-SOUTH CENTER LINE OF SAID SECTION 15, NORTH 00 DEGREES 00 MINUTES 59 SECONDS WEST, A DISTANCE OF 2613.86 FEET TO THE CENTER OF SAID SECTION 15 AND THE NORTHWEST CORNER OF THE TRACT HEREIN DESCRIBED;

THENCE SOUTH 89 DEGREES 58 MINUTES 29 SECONDS EAST ALONG THE EAST-WEST CENTER LINE OF SAID SECTION 15, A DISTANCE OF 2605.28 FEET TO THE NORTHEAST CORNER OF THE TRACT HEREIN DESCRIBED, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF CITRUS ROAD;

THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE OF CITRUS ROAD SOUTH 00 DEGREES 00 MINUTES 16 SECONDS WEST, A DISTANCE OF 2569.25 FEET TO AN ANGLE POINT;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE OF CITRUS ROAD SOUTH 45 DEGREES 02 MINUTES 28 SECONDS WEST, A DISTANCE OF 56.53 FEET TO AN ANGLE POINT, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF LOWER BUCKEYE ROAD;

THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE OF LOWER BUCKEYE ROAD NORTH 89 DEGREES 55 MINUTES 19 SECONDS WEST A DISTANCE OF 579.95 FEET TO AN ANGLE POINT;

THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE OF LOWER BUCKEYE ROAD SOUTH 00 DEGREES 04 MINUTES 41 SECONDS WEST A DISTANCE OF 7.00 FEET TO AN ANGLE POINT;

THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE OF SAID LOWER BUCKEYE ROAD, NORTH 89 DEGREES 55 MINUTES 19 SECONDS WEST, A DISTANCE OF 1984.37 FEET TO THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT AND THE TRUE POINT OF BEGINNING.

EXHIBIT B
RESOLUTION NO. 15-1724

FOURTH AMENDMENT TO AMENDED & RESTATED DEVELOPMENT AGREEMENT

FOR PRADERA

(attached)