

RESOLUTION NO. 15-1727

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 LA JOLLA VISTA; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT THE INTENT OF THE RESOLUTION AND FOURTH AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Citrus & Lower Buckeye LLC (“Owner”) owns approximately 198.5 acres generally located east of Citrus Road, North of West Lower Buckeye Road, and West of 173rd Avenue 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 was and is 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 and certain of the IDG Members, including Owner, 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 La Jolla Vista dated June 26, 2013 recorded in the official records of Maricopa County, Arizona as Record No. 2013 0594314 (“La Jolla Vista Amended & Restated Development Agreement”), which sets forth certain obligations and commitments of the Parties relative to the development of the Property; and

WHEREAS, the La Jolla Vista Amended & Restated Development Agreement included a deadline for the recordation of at least one of the existing approved final plats subdividing the Property; and

WHEREAS, Owner and the City entered into that certain First Amendment to the Amended & Restated Development Agreement for La Jolla Vista dated January 16, 2014 recorded in the official records of Maricopa County, Arizona as Record No. 2014 0040963 (“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 La Jolla Vista dated May 19, 2014 recorded in the official records of Maricopa County, Arizona as Record No. 2014 0334245 and re-

recorded as Record No. 2014 0373259 (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 La Jolla Vista dated June 12, 2015 recorded in the official records of Maricopa County, Arizona as Record No. 2015 0457194 (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 La Jolla Vista Amended & Restated Development Agreement, as amended, the existing approved final plats for La Jolla Vista will terminate if at least one of the existing approved final plats subdividing the Property 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 La Jolla Vista will include an extension of time for the recordation of currently existing approved final plats for La Jolla Vista; 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 La Jolla Vista Amended & Restated Development Agreement to extend the deadline for recording the currently existing approved final plat for La Jolla Vista 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 La Jolla Vista between Citrus & Lower Buckeye LLC, an Arizona 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 La Jolla Vista between Citrus & Lower Buckeye LLC, an Arizona 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. 15-1727, is a true, correct and accurate copy of Resolution No. 15-1727, 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. 15-1727
Legal Description of La Jolla Vista

That part of the South Half of Section 14, Township 1 North, Range 2 West of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the Maricopa County Aluminum Cap marking the South Quarter Corner of said Section 14;

Thence North 89°45'07" West, along the South line of the Southwest Quarter of said Section 14, a distance of 2,646.05 feet to the Maricopa County Aluminum Cap in a pothole marking the Southwest Corner of said Section 14;

Thence North 00°20'07" East, along the West line of the Southwest Quarter of said Section 14, a distance of 2,609.33 feet to a point on a line which is parallel with and 40.00 feet Southerly, as measured at right angles, from the North line of the Southwest Quarter of said Section 14;

Thence South 89°41'47" East, along said parallel line, a distance of 2,644.21 feet to a point on the East line of the Southwest Quarter of said Section 14;

Thence South 00°17'41" West, along said East line, a distance of 1,283.38 feet to the Northwest Corner of the Southwest Quarter of the Southeast Quarter of said Section 14;

Thence South 89°44'17" East, along the North line of the Southwest Quarter of the Southeast Quarter of said Section 14, a distance of 1,321.85 feet to the Northeast Corner thereof;

Thence South 00°14'38" West, along the East line of the Southwest Quarter of the Southeast Quarter of said Section 14, a distance of 1,322.85 feet to the Southeast Corner thereof;

Thence North 89°45'39" West, along the South line of the Southeast Quarter of said Section 14, a distance of 1,323.03 feet to the Point of Beginning;

Containing 198.54 Acres, more or less.

EXHIBIT B
RESOLUTION NO. 15-1727

FOURTH AMENDMENT TO AMENDED & RESTATED DEVELOPMENT AGREEMENT

FOR LA JOLLA VISTA

(attached)