

RESOLUTION NO. 2018-1855

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING A DEVELOPMENT AGREEMENT REGARDING THE CONSTRUCTION OF CERTAIN INFRASTRUCTURE IMPROVEMENTS WITHIN LUCERO AND FUTURE MAINTENANCE RESPONSIBILITY FOR CERTAIN INFRASTRUCTURE; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT INTENT OF THE RESOLUTION AND DEVELOPMENT AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, NNP III – EMR 3 LLC, a Delaware limited liability company (“NNP III – EMR 3”) is the owner of that certain real property legally described in Exhibit 1 attached hereto and NNP III – EMR 4 LLC, a Delaware limited liability company (“NNP III – EMR 4”) is the owner of that certain real property legally described in Exhibit 2 attached hereto (collectively the “Property”); and

WHEREAS, the Property, which is commonly known as Lucero, is generally located on the west side of Estrella Parkway, south of the Star Tower to the intersection of Estrella Parkway and Cotton Lane within the Lucero Planned Area Development; and

WHEREAS, Owner is responsible for constructing and maintaining infrastructure improvements necessary to dispose of storm water from the Property and adjacent roadways (“Storm Water Improvements”); and

WHEREAS, because of the topography and geographic limitations of the Property, certain Storm Water Improvements needed to dispose of storm water from parcels and roadways within the Property will be located outside the boundaries of any final plat subdividing all or part of the Property; and

WHEREAS, because most of the Storm Water Improvements will not be located within platted property, the city required a development agreement is required to ensure that the Storm Water Improvements are properly maintained following their completion; and

WHEREAS, in addition, because of changes to state law regarding development impact fees, the the city desired a development agreement to address the timing of the construction of two traffic signals and the reimbursement obligations related to the two traffic signals; and

WHEREAS, the Owner sought terms that would allow Owner to them commence, on an at risk basis, mass grading to balance the Property and final grading, including final grading for the Lucero Welcome Center, before the construction plans for all required infrastructure have been completed and approved, including the plans for the secondary sewer force main; and that modified the requirements for financial assurances; and

WHEREAS, the proposed development agreement provides for the future ownership of the Storm Water Improvements by Villages at Estrella Mountain Ranch Community Association (“HOA”);

addresses the timing of the construction of two traffic signals and the reimbursement obligations related to the two signals; allows for at risk mass grading and final grading; and modifies the requirements for financial assurances; and

WHEREAS, staff finds that the proposed development agreement provides adequate assurances for the completion of the public infrastructure Owner is required to construct within the Property and provides adequate protections for the city related to the at risk grading being allowed; and

WHEREAS, the proposed development agreement will facilitate the development of Lucero;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the city of Goodyear hereby approve Development Agreement For Lucero entered into by and between NNP III – EMR 3, LLC, a Delaware limited liability company, NNP III – EMR 4, LLC, a Delaware limited liability company, The Villages at Estrella Mountain Ranch Community, an Arizona non-profit corporation and the city of Goodyear, an Arizona municipal corporation, attached hereto as Exhibit 3 (the “Development Agreement”); and

SECTION 2. The City Manager is hereby authorized and directed to execute the Development Agreement attached hereto as Exhibit 3; and

SECTION 3. 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 Development Agreement; and

SECTION 4. The Development Agreement is intended to be a development agreement pursuant to A.R.S. § 9-500; and

SECTION 5. That this Resolution shall become effective thirty days after it is passed and adopted by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 2018-1855 is a true, correct and accurate copy of Resolution No. 2018-1855, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said resolution.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk

Exhibit 1
Legal Description of NNP III – EMR 3 Property

ESTRELLA PARCEL 43 (MODIFIED)
ESTRELLA MOUNTAIN RANCH
GOODYEAR, ARIZONA



November 30, 2012
Job No. 2012-057
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THAT PORTION OF SECTIONS 1 AND 12 OF TOWNSHIP 1 SOUTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 1, FROM WHICH THE EAST QUARTER CORNER THEREOF BEARS SOUTH 00 DEGREES 20 MINUTES 27 SECONDS WEST, A DISTANCE OF 2,708.44 FEET;

THENCE SOUTH 00 DEGREES 20 MINUTES 27 SECONDS WEST, ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1, A DISTANCE OF 1,222.69 FEET TO A POINT ON THE NORTHWESTERLY RIGHT OF WAY LINE OF ESTRELLA PARKWAY, ACCORDING TO THE MAP OF DEDICATION RECORDED IN BOOK 318 OF MAPS, PAGE 38, RECORDS OF MARICOPA COUNTY, ARIZONA, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHEAST OF WHICH THE RADIUS POINT LIES SOUTH 53 DEGREES 36 MINUTES 46 SECONDS EAST, A RADIAL DISTANCE OF 1,665.00 FEET;

THENCE ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE, SOUTHWESTERLY ALONG SAID ARC, THROUGH A CENTRAL ANGLE OF 01 DEGREES 43 MINUTES 14 SECONDS, A DISTANCE OF 50.00 FEET

THENCE NORTH 55 DEGREES 20 MINUTES 01 SECONDS WEST, DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 172.11 FEET;

THENCE SOUTH 30 DEGREES 23 MINUTES 37 SECONDS WEST, A DISTANCE OF 280.10 FEET;

THENCE NORTH 68 DEGREES 25 MINUTES 52 SECONDS WEST, A DISTANCE OF 190.27 FEET;

THENCE SOUTH 19 DEGREES 48 MINUTES 54 SECONDS WEST, A DISTANCE OF 150.91 FEET;

THENCE SOUTH 01 DEGREES 52 MINUTES 35 SECONDS EAST, A DISTANCE OF 231.91 FEET;

THENCE SOUTH 32 DEGREES 37 MINUTES 39 SECONDS EAST, A DISTANCE OF 129.02 FEET;

THENCE SOUTH 22 DEGREES 14 MINUTES 09 SECONDS WEST, A DISTANCE OF 625.30 FEET;

THENCE SOUTH 70 DEGREES 41 MINUTES 03 SECONDS EAST, A DISTANCE OF 118.19 FEET;

THENCE SOUTH 19 DEGREES 18 MINUTES 57 SECONDS WEST, A DISTANCE OF 39.46 FEET;

THENCE SOUTH 70 DEGREES 40 MINUTES 46 SECONDS EAST, A DISTANCE OF 81.31 FEET TO A POINT ON SAID NORTHWESTERLY RIGHT OF WAY LINE OF ESTRELLA PARKWAY, AS DEPICTED ON THE MAP OF DEDICATION FOR "ESTRELLA, PHASE ONE", RECORDED IN BOOK 318 ON PAGE 38, RECORDS OF MARICOPA COUNTY, ARIZONA, SAID POINT BEING A THE BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHWESTERLY, OF WHICH THE RADIUS POINT LIES NORTH 70 DEGREES 13 MINUTES 55 SECONDS WEST, A RADIAL DISTANCE OF 4,935.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE OF THE NORTHWESTERLY RIGHT OF WAY LINE OF ESTRELLA PARKWAY, THROUGH A CENTRAL ANGLE OF 08 DEGREES 55 MINUTES 53 SECONDS, A DISTANCE OF 769.28 FEET;



THENCE SOUTH 28 DEGREES 41 MINUTES 58 SECONDS WEST, A DISTANCE OF 748.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 5,935.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 30 DEGREES 35 MINUTES 57 SECONDS, A DISTANCE OF 3,169.62 FEET;

THENCE SOUTH 59 DEGREES 17 MINUTES 55 SECONDS WEST, A DISTANCE OF 990.25 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,535.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 26 DEGREES 42 MINUTES 10 SECONDS, A DISTANCE OF 715.39 FEET;

THENCE SOUTH 86 DEGREES 00 MINUTES 05 SECONDS WEST, A DISTANCE OF 90.53 FEET TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 12;

THENCE NORTH 00 DEGREES 26 MINUTES 05 SECONDS EAST, DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE OF ESTRELLA PARKWAY, ALONG SAID WEST LINE OF THE NORTHWEST QUARTER OF SECTION 12, A DISTANCE OF 1,510.40 FEET TO THE NORTHWEST CORNER OF SAID SECTION 12, COMMON WITH THE SOUTHWEST CORNER OF SAID SECTION 1;

THENCE NORTH 00 DEGREES 39 MINUTES 31 SECONDS EAST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 2,606.11 FEET TO THE WEST QUARTER CORNER THEREOF;

THENCE NORTH 02 DEGREES 11 MINUTES 09 SECONDS WEST, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 2,694.67 FEET TO THE NORTHWEST CORNER OF SAID SECTION 1;

THENCE NORTH 89 DEGREES 37 MINUTES 46 SECONDS EAST, ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2,470.11 FEET TO THE SOUTH QUARTER CORNER OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 2 WEST OF SAID GILA AND SALT RIVER BASE AND MERIDIAN;

THENCE NORTH 89 DEGREES 46 MINUTES 21 SECONDS EAST, ALONG SAID NORTH LINE, A DISTANCE OF 70.32 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 1;

THENCE NORTH 89 DEGREES 46 MINUTES 21 SECONDS EAST, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 1, A DISTANCE OF 2,521.97 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 24,606,870 SQUARE FEET OR 564.896 ACRES, MORE OR LESS.

Exhibit 2
Legal Description of NNP III – EMR 4 Property

ESTRELLA PARCEL 47a (MODIFIED)
ESTRELLA MOUNTAIN RANCH
GOODYEAR, ARIZONA



November 30, 2012
Job No. 2012-057
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A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 1 SOUTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A THE NORTHEAST CORNER OF SAID SECTION 11, FROM WHICH THE NORTH QUARTER CORNER OF SAID SECTION 11 BEARS NORTH 89 DEGREES 39 MINUTES 30 SECONDS WEST, A DISTANCE OF 2649.32 FEET;

THENCE SOUTH 00 DEGREES 26 MINUTES 05 SECONDS WEST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 11, A DISTANCE OF 1,510.40 FEET TO THE NORTHWESTERLY RIGHT OF WAY LINE OF ESTRELLA PARKWAY, ACCORDING TO THE MAP OF DEDICATION RECORDED IN BOOK 318 OF MAPS, PAGE 38, RECORDS OF MARICOPA COUNTY, ARIZONA,;

THENCE CONTINUING ON SAID NORTHWESTERLY RIGHT OF WAY LINE, SOUTH 86 DEGREES 00 MINUTES 05 SECONDS WEST, A DISTANCE OF 867.86 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 4,165.00 FEET;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 04 DEGREES 12 MINUTES 00 SECONDS, A DISTANCE OF 305.31 FEET;

THENCE SOUTH 81 DEGREES 48 MINUTES 05 SECONDS WEST, A DISTANCE OF 171.02 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COTTON LANE AS DESCRIBED IN DOCUMENT 2006-1679431, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 58 DEGREES 53 MINUTES 56 SECONDS WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 95.16 FEET;

THENCE NORTH 02 DEGREES 01 MINUTES 23 SECONDS WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 1,588.40 FEET TO THE NORTH SECTION LINE OF SAID NORTHEAST QUARTER OF SECTION 11;

THENCE SOUTH 89 DEGREES 39 MINUTES 30 SECONDS EAST, ALONG SAID NORTH SECTION LINE A DISTANCE OF 1,487.58 FEET TO THE **POINT OF BEGINNING** OF THE PARCEL HEREIN DESCRIBED.

SAID PARCEL CONTAINS 2,278,265 SQUARE FEET OR 52.302 ACRES, MORE OR LESS.

Exhibit 3
Development Agreement