

RESOLUTION NO. 2018-1875

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

WHEREAS, NNP III-Estrella Mountain Ranch, LLC (“Estrella”) and TOUSA Homes, Inc., L.L.C., (“TOUSA”) and the city entered into that certain Development and Fire Services Agreement dated May 22, 2006 (the “Agreement”), and recorded as Instrument No. 2006-0731018 in the official records of Maricopa County, Arizona, which sets forth certain obligations and commitments of the Parties relative to the provision of fire services in the Estrella Community and to satisfy certain stipulations regarding further development of that community, and

WHEREAS, a First Amendment to the Development and Fire Services Agreement between NNPIII-Estrella Mountain Ranch, LLC and AV Homes of Arizona, now successor of TOUSA Homes, Inc., was entered into on January 23, 2017 and recorded as Instrument No. 2017-0077329 in the official records of Maricopa County, Arizona which details developer capital obligations, as well as Operation and Maintenance Funding (O&M) to begin when the permits for construction of the new station are pulled; and

WHEREAS, due to challenges in the site evaluation process for the new station the project has been delayed and it has been determined it would be best to remain with the fire station site the City already has acquired; and

WHEREAS, in anticipation of the new station being constructed, the city has made conditional job offers to seven new firefighters and secured fire academy spots for them based on the anticipated July 1, 2018 hire date; and

WHEREAS, the developer O&M funding is not scheduled to begin until the permits for constructing the new fire station have been pulled; and

WHEREAS, this Second Amendment to the Agreement will remove the obligations for Estrella to provide a new site required by the First amendment and will trigger the developer O&M payments beginning July 1, 2018;

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 the Second Amendment to Development and Fire Services Agreement between NNP III-Estrella Mountain Ranch, LLC, AV Homes of Arizona, LLC, and the city of Goodyear, an Arizona municipal corporation attached hereto as Exhibit A (the “Second Amendment”); and

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

SECTION 3. The City Manager is hereby authorized and directed to execute the Second Amendment attached hereto as Exhibit A, as modified by the City Attorney; and

SECTION 4. The Second 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 Second 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 _____ 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. 2018-1875 is a true, correct and accurate copy of Resolution No. 2018-1875, 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