

**CITY OF GOODYEAR
COUNCIL ACTION REPORT**

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| SUBJECT: Approve Development Agreement for Rainbow Valley | STAFF PRESENTER: Sarah Chilton, Asst. City Attorney CASE NUMBER: None OTHER PRESENTER: None |
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PROPOSED ACTION:

1. ADOPT RESOLUTION NO. 2018-1908 APPROVING DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; AUTHORIZING THE CITY ATTORNEY TO MAKE NON-SUBSTANTIVE CHANGES TO THE DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; DIRECTING THE CITY MANAGER TO EXECUTE THE DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; AUTHORIZING AND DIRECTING THE CITY MANAGER OR HER DESIGNEE TO TAKE ALL ACTIONS AND EXECUTE ALL DOCUMENTS NECESSARY TO CARRY OUT THE INTENT OF THE RESOLUTION AND THE DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; AND PROVIDING FOR AN EFFECTIVE DATE.
2. Approve related budget transfer of \$80,000.

BACKGROUND AND PREVIOUS ACTIONS:

In the fall of 2007, the city received an application to rezone approximately 1,000 acres of property generally located at the northwest corner of the W. Queen Creek Road alignment and Rainbow Valley Road to allow for the development of a project to be known as Rainbow Valley. A first review comment letter was provided in response to the Rainbow Valley PAD rezone application, however, because of the downturn in the economy, a second submittal was not made until many years later. Following communication from the property owner regarding re-starting the PAD approval process, a pre-second submittal meeting was held with the owner in April of 2017, and the formal second submittal was made in July of 2017. The property is not contiguous to existing development or to existing infrastructure, is not currently being served by City water or wastewater facilities, and is not located within the City's Designation of Assured Water Supply, therefore staff was having difficulty reconciling policies in the City of Goodyear General Plan with the expansion of development into the Northern Waterman Wash area, which includes the Rainbow Valley property.

Council was provided a "Yellow Paper" on January 19, 2018 that provided historical context and background related to development efforts in the Northern Waterman Wash area, and a Council work session was held on January 29, 2018. The purpose of the work session was to discuss how the current policies in the General Plan impacted consideration of development in the Northern Waterman Wash area, the status of public service and utility delivery in this area, the expected benefits and challenges presented by the development of the Northern Waterman Wash area, and to receive clear direction from Council.

The direction received was to try and find a solution that would allow the entitlement process to move forward that was consistent with the City's policy that growth pays for growth, does not unduly burden existing residents and that minimizes the risk to the City. The proposed Development Agreement for Rainbow Valley and the stipulations in the zoning ordinance are the mechanisms developed to achieve the council's desired outcome.

STAFF ANALYSIS:

In keeping with the city's policy that growth pays for growth, the development agreement will require owner to purchase all capital equipment, dedicate all necessary on-site and off-site rights-of-way, design, install, and/or construct all public infrastructure, on-site and off-site, determined by the city as being necessary to support the development of the property and to allow the city to provide city services to the property except as otherwise provided in the development agreement. In addition to this overarching obligation, the development agreement addresses transportation requirements, fire services requirements and utility services requirements, government services necessary for the health and safety of future residents of Rainbow Valley. In addition, the development agreement addresses the timing of the development of park and recreational amenities, which are necessary for the welfare of the future residents of Rainbow Valley, and sources of reimbursements for infrastructure that is constructed that provides a regional benefit.

The agreement provides a broad description of the requirements related to specific categories of infrastructure. The parties anticipate that there will be numerous amendments or separate agreements that will provide more detail during the development process. The major terms of the development agreement include the following:

Water and Wastewater Infrastructure

This property is not located within the City's assured water supply designation. The source of water to serve the property is ground water and the City's existing assured water supply designation (legal availability) is not sufficient to cover build-out and has been acquired and funded by impact fees for development north of the Property. Ensuring the availability of a physical water supply sufficient to supply water to the Property at build-out for 100 years, ensuring the legal availability of a water supply sufficient to supply water to the Property at build-out for 100 years and ensuring the development of the facilities needed to provide water service to the property were critical components of the development agreement. Because the City has not determined whether it will provide water services to this area, the development agreement contemplates two approaches to water service.

- If City determines, in its discretion, to provide water service to Rainbow Valley, and subject to ADWR approval:
 - City will do so under a new service area that is not within the City's Designation of Assured Water Supply.
 - Prior to Final Plat approval, Owner will be required to provide Certificates of Assured Water Supply demonstrating a physically and legally available water supply sufficient to provide water service at build out for 100 years including accounting for water treatment losses

- Prior to Final Plat approval, Owner will be required to provide the City with the legal right to withdraw ground water sufficient to provide water service at build-out for 100 years including accounting for water treatment losses
- Owner is required to design and construct all infrastructure, on-site and off-site and acquire all equipment necessary for the City to provide water services at build-out.
 - System is to be designed in such a way that the current water rates and fees, unless waived by the City Council, will cover at least 90% of the costs of treating the water to a level equivalent to the then existing applicable standards, including managing the by-products from the treatment process and delivering the water.
- Agreement provides for off-site water as a source of water for the Property but owner is required to convey the rights to the off-site water.
- If the City determines, in its discretion, to provide water service to Rainbow Valley, it will also provide wastewater service:
 - Owner is required to design and construct all infrastructure, on-site and off-site and acquire all equipment necessary for the City to provide wastewater services at build-out
 - System is to be designed in such a way that the current wastewater rates and fees, unless waived by the City Council, will cover at least 90% of the costs of operating the water system.
- If the City is not going to be a water provider, then water and wastewater service will be provided by a private provider.
 - Private Provider must meet the following qualifications:
 - Classified by Arizona Corporation Commission as a Class A Utility or equivalent and must be in good standing with the Arizona Corporation Commission
 - Service Provider's certificated area must include the property
 - Service Provider's water and wastewater will meet all regulatory requirements
 - Owner is required to provide ADWR approved Certificate of Assured Water Supply for all subdivision plats prior to approval of each final plat

In the event there is no Private Provider available that meets the requirements in the development agreement and the City is legally required to provide water service under its current Designation of Assured Water Supply, then, pursuant to a stipulation in the zoning ordinance, the Owner will be required to satisfy all of the requirements that would apply if the City were providing water service under a new water service area, but in addition, prior to final plat approval, provide the City with sufficient extinguishment credits or renewable supplies such as CAP water or long term storage credits sufficient to offset any anticipated Central Arizona Groundwater Replenishment District ("CAGR") replenishment obligations associated with excess groundwater uses within the Property for 100 years (not considering any other City Designation of Assured Water Supply resources); provide the City with the legal right and permits to withdraw groundwater sufficient to provide water service to the Property at build-out for 100 years, including accounting for all water demands including an estimate of water treatment losses.

Transportation Infrastructure

Owner is required to design, install, and/or construct, all ***on-site*** transportation-related infrastructure, necessary to provide for safe and adequate circulation within the Property, connectivity to neighboring adjacent properties, and connectivity to existing and future regional transportation routes, including:

- A high and dry culvert and/or bridge crossing over Waterman Wash that will accommodate a 100 year storm event must be constructed before development of the portion of the Property south of Waterman Wash is constructed.

Owner is required to design, install, and/or construct, ***off-site*** transportation-related infrastructure, ***other than off-site bridges and off-site traffic signals***, necessary to provide for safe and adequate circulation within the Property, connectivity to neighboring adjacent properties, and connectivity to existing and future regional transportation routes

- Obligations for the construction of off-site transportation related infrastructure are limited to the transportation related infrastructure identified in the development agreement and the Initial Traffic Impact Analysis for fifteen (15) years except:
 - If final plats are recorded that cumulatively plat a minimum of 100 residential lots within property between Pecos and Patterson and any updated Traffic Impact Analysis demonstrates that additional off-site transportation infrastructure is needed, other than off-site bridges and off-site traffic signals, then the Owner will be responsible for the design, installation, and construction of such infrastructure ***other than off-site bridges and off-site traffic signals***.

Owner is required to provide two points of access for Emergency Services Access. Rainbow Valley Road, which is a two-lane road, is the only partially developed road from which the Property can be accessed. Rather than requiring Owner to construct a second roadway, the development agreement allows for the use of Rainbow Valley Road to provide two points of access. To avoid the possibility that all of Rainbow Valley Road is shut down in the event of a serious event, Owner is required, prior to the issuance of the first building permit for vertical construction, to:

- improve the section of Rainbow Valley Rd from Willis Road to Germann Rd. to four lanes with a median
- construct street improvements to the portion of Germann Road located within the Property as needed to provide secondary access
- provide a second point of access into the Property other than off of Rainbow Valley Road, but the secondary point of access does not have to be an all-weather roadway, but it must be accessible to the public.

Fire

Owner is responsible for making contributions under the Fire Services Agreement between the City, Newland and AV Homes and, if certain triggers are met, for constructing a new fire station.

- Owner is responsible for making a capital contribution towards the cost of the Willis Road fire station that is being constructed pursuant to the Fire Services Agreement

between the City, Newland and AV Home and for making contributions towards the O&M payments owed under the agreement. The capital contribution is \$588,044 and the O&M contribution is \$46,270 per quarter.

- Owner will also have to dedicate land, design and construct a fire station, provide a fire truck and provide O&M for five (5) years if either of the following triggers are met:
 - there are more than 500 “Code 3” calls for service within the Property in a given 365 day period and the response time for those calls for service is greater than eight (8) minutes 30% or more of the time or
 - proposed development within the Property is five (5) paved road miles or more for an existing Goodyear fire station
- Impact Fees for Emergency Services (Fire and Police) that include this area are to be adopted to provide a reimbursement mechanism for the capital contributions toward the Willis Road Fire Station
 - The City is responsible for processing and paying for the costs of the updated impact fee studies
 - Owner will receive all fire impact fees collected within Property until they are fully reimbursed for the Willis Road Fire Station Capital Contribution

Parks

Property is to be developed in accordance with the Rainbow Valley PAD, as modified by the development agreement or the Goodyear Parks, Recreation, Trails and Open Space Master Plan in effect when the Property develops, whichever will provide the most open space, parks and recreational amenities, and Owner shall, at its sole cost, design, install, construct and equip all parks, open space, and recreational amenities that are to be developed.

- The open space and parks requirements in the Rainbow Valley PAD will be vested provided that Owner satisfies various requirements within ten (10) years of the effective date of the Agreement, including:
 - recording a final plat for the development of the entire First Phase (100 acres)
 - obtaining a building permit for vertical construction of at least one production home within the First Phase
- The development agreement provides triggers for the timing of the construction of the various open space and park amenities, which include:
 - Sections of the Waterman Wash Paths
 - Trailhead
 - Regional Path that provides access to the Waterman Wash Paths from properties to the south
 - The Project Trail along the Power Corridor
 - The three (3) Enhanced Neighborhood Parks

Finance

The parties anticipate that some of the infrastructure that Owner will need to construct pursuant to the terms of the development agreement may benefit other properties in the region (“Regional Infrastructure”). The development agreement includes terms related to reimbursements for such infrastructure. The following is a summary of the terms related to reimbursements:

- No guarantees of reimbursement, but the City has to make a good faith effort to obtain reimbursements for Regional Improvements as provided in the agreement
- Only one source of recovery (for example, if reservation of capacity is used as the mechanism for reimbursement for water infrastructure, then the costs of such water infrastructure would not be eligible to be included in an impact fee study)
- Cost Recovery for Regional Street Improvements and Regional Utility Lines
 - Owner responsible for all costs
 - No guarantee that Cost Recovery Ordinance/Resolution will be enacted
 - City's sole liability is to remit monies collected and to endeavor to enforce any Cost Recovery Ordinance/Resolution Enacted
- Reservation of Capacity for regional utility infrastructure
 - City will reserve capacity in excess of what is needed to serve the Property - but the reservation has to be pursuant to an amendment to the agreement that gives the City the right to convey the capacity at an established price per gallon as established in the amended and that is to be based on the actual cost of the infrastructure
- Development Fees
 - Street development impact fees that include this area are to be developed and considered to reflect developments proportionate share of eligible regional transportation infrastructure, such as the expansion of the Estrella Parkway
 - The City is responsible for processing and paying for the costs of the updated transportation impact fee study
 - Other than the initial impact fee study for police, fire and transportation that the City is paying for, Owner will be responsible for all costs associated with the impact fee process and providing the information needed for the adoption of impact fees if impact fees are to be used as the source of reimbursement for regional infrastructure costs
 - Cost Recovery is the only source of recovery for off-site roadways constructed by Owner that are eligible for reimbursement under the agreement
- Other Reimbursements – City agrees to consider requests to pursue available mechanisms that do not create contingent liability on the part of the City
- No interest to accrue or be owed for any reimbursements or credits to be provided
- The City is waiving all fees applicable to the modification, amendment or restatement of this Agreement or the creation of a new development agreement that are needed to modify or implement the terms of the development agreement.

FISCAL ANALYSIS:

Although a fiscal impact analysis has not been conducted on this specific project, all new development will have an ongoing fiscal impact on the City. The development is responsible for construction of all infrastructure necessary to serve the site as summarized above and will generate one-time revenue for the City through payment of permits, construction sales tax and development impact fees once implemented. Longer term fiscal impacts include increased demands for municipal services, the costs of which may or may not be offset by increased

property values/tax levies, city sales tax, state shared revenues and the increased demand for commercial and retail development.

A budget transfer from the City Manager General Fund one-time contingency in the amount of \$80,000 is required in order to complete the city obligation related to the development and implementation of an Infrastructure Improvement Plan, Land Use Assumptions and Development Impact Fees for Police, Fire and Streets. The remaining balance in the City Manager One-time General Fund Contingency before this item is \$218,000.

RECOMMENDATION:

Staff recommends the approval of Resolution 2018-1908 approving the Development Agreement for Rainbow Valley and the budget transfer from the City Manager general fund one-time contingencies in the amount of \$80,000 for the costs associated with the development and implementation of an Infrastructure Improvement Plan, Land Use Assumptions and Development Impact Fees for Police, Fire and Streets contemplated in the Development Agreement for Rainbow Valley. The Development Agreement for Rainbow Valley is consistent with the City's policy that growth pays for growth, does not unduly burden existing residents and that minimizes the risk to the City.

ATTACHMENTS:

Resolution No. 2018-1908

- Exhibit 1 – Legal Description
- Exhibit 2 – Development Agreement for Rainbow Valley
With Exhibits A and B