

RESOLUTION NO. 2019-1944

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR WEST GOODYEAR SEWER AND WATER INFRASTRUCTURE AND THE SECOND AMENDMENT TO THE ESCROW AGREEMENT; AUTHORIZING THE EXECUTION OF THE AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in early 2005, owners of sixteen properties (“WG Properties”) located in the West Goodyear Central Planning Area (“WGCPA”), which encompasses 3,364 acres and over 8000 residential units to be located west of Citrus Road and south of Van Buren, began working with the city to facilitate development in the WGCPA; and

WHEREAS, since then, the City Council has considered and approved a number of actions related to the on-going efforts to facilitate development in the WGCPA including approvals of: annexations; rezonings; development agreements, restated development agreements, and amendments thereto; and cost recovery resolutions and amendments thereto; and

WHEREAS, the owners of five of the WG Properties (Amber Meadows, Paseo Ridge I & II, Las Ventanas, Pradera and La Jolla Vista) have joined together to fund key local and regional water and sewer lines needed to serve close to 1900 single family residential units within their respective properties; and

WHEREAS, in furtherance of that joint effort the Mayor and Council of the city of Goodyear adopted Resolution 17-1792 approving an Infrastructure Development Agreement for the development of the specifically identified local and regional water and sewer lines; and

WHEREAS, the Infrastructure Development Agreement provided for the execution of an Escrow Agreement in the form attached to the Infrastructure Development Agreement; and

WHEREAS, the Infrastructure Development Agreement and the Escrow Agreement included terms requiring the completion of the local and regional water and sewer lines within eighteen (18) months from the Effective Date of the agreements; and

WHEREAS, the parties to the Infrastructure Development Agreement and the Escrow Agreement have requested that the deadline for completion of the local and regional water and sewer lines be extended from eighteen (18) months to twenty-four (24) months; and

WHEREAS, the extension was granted and determined to be in the best interests of the city; and

WHEREAS, the parties to the Infrastructure Development Agreement and the Escrow Agreement have diligently worked with the city during the extension from eighteen (18) months to twenty-four (24) months; and

WHEREAS, the parties further request an additional four (4) month to a total of twenty-eight (28) month extension to complete the local and regional water and sewer lines; and

WHEREAS, the parties to the Infrastructure Development Agreement and the Escrow Agreement have further worked with staff regarding various portions of the Regional Wastewater Trunk Lines and the Durango Wastewater Line having been constructed slightly below the approved engineered designed slopes; and

WHEREAS, and due to the constructed slopes, the sewage in those pipes may flow below the County and State minimum of two (2) feet per second for velocity; and

WHEREAS, the County and State requires the City to implement and maintain an inspection, flushing and cleaning program for those pipe sections, which program shall be in compliance with the requirement of Maricopa County, the Arizona Department of Environmental Quality or any other federal, state or local governmental or quasi-governmental entity or agency (the “Flushing Program”); and

WHEREAS, the City is unwilling to accept the Regional Wastewater Trunk Lines and the Durango Wastewater Line as constructed without funding for the required Flushing Program; and

WHEREAS, and the Owners have agreed make a one-time lump sum in-lieu payment to the City of \$200,000 to fund the Flushing Program provided that the City agrees to accept the Regional Wastewater Trunk Lines and the Durango Wastewater Lines as constructed and the City’s agreement to assume all obligations of the Flushing Program; ; and

WHEREAS, the associated Escrow Agreement shall be amended to provide for the Owners to deposit the In-Lieu Payment in cash into the Escrow and to irrevocably authorize the Escrow Agent to disburse the In-Lieu Payment to the City upon City’s delivery to the Escrow Agent of the City’s Letter of Acceptance of all Regional Lines and the Durango Lines; and

WHEREAS, the Mayor and Council of the city of Goodyear, Arizona, find the granting of the requested extension and the approval of the Flushing Program to be in the best interest of the city;

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 Agreement for West Goodyear Sewer and Water Infrastructure attached hereto as Exhibit 1 and the Second Amendment to Escrow Agreement attached hereto as Exhibit 2.

SECTION 2. The City Manager or his designee is hereby authorized and directed to execute the Second Amendment to Development Agreement for West Goodyear Sewer and Water Infrastructure attached hereto as Exhibit 1 and the Second Amendment to Escrow Agreement attached hereto as Exhibit 2, and the City Attorney is authorized to make non-substantive changes or corrections in furtherance of the intent of these agreements.

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

Date: _____

APPROVED AS TO FORM:

Roric Massey, City Attorney

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. 2019-1944 is a true, correct and accurate copy of Resolution No. 2019-1944, 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____.

City Clerk