

AGENDA ITEM #: _____

DATE: October 7, 2019

CAR #: 2019-6797



CITY COUNCIL ACTION REPORT

SUBJECT: Development Agreement for the Reimbursement and Allocation of Cost Recovery Payment

STAFF PRESENTER(S): Stephen Scinto, Plan Review Manager

OTHER PRESENTER(S): None

Summary: The proposed development agreement provides for the reimbursement and allocation of a cost recovery payment owed to the City pursuant to Resolution 06-1090 for improvements to Van Buren Road.

Recommendation: ADOPT RESOLUTION NO. 2019-2005 APPROVING THE DEVELOPMENT AGREEMENT FOR THE REIMBURSEMENT AND ALLOCATION OF COST RECOVERY PAYMENT; DIRECTING THE CITY MANAGER TO EXECUTE THE DEVELOPMENT AGREEMENT; AUTHORIZING AND DIRECTING ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Fiscal Impact: The approval of this agreement will ensure the City's receipt of a cost recovery payment of \$1,127,894.94, but will delay the City's receipt of such payment.

Background and Previous Actions

Property owners in the city are required under applicable development regulations to construct half-street improvements for the portion of roadways adjacent to their respective properties. The Mayor and Council approved a capital improvement project for the completion of Van Buren Street because they did not want to wait for Van Buren Street to be constructed until the properties adjacent to Van Buren Street developed. Because the construction of the Van Buren Street improvements benefitted the adjacent properties, the Mayor and Council of the City of Goodyear adopted Cost Recovery Resolution 06-1090 (the "Cost Recovery Resolution") to provide for the recovery of the costs of Van Buren Street Improvements.

Staff Analysis

The Cost Recovery Resolution allocated and assessed a proportionate share of the costs of the Van Buren Street Improvements to the adjacent properties, including an assessment of \$1,127,894.93 ("Cost Recovery Payment") to two parcels of land (formerly identified by the Maricopa Assessor as Parcels 500-10-687 and 500-10-688). The Cost Recovery Payment is to be fully paid in connection with certain initial development activities within the parcels.

At the time of the assessment, the two parcels were wholly owned by Squaw Peak Goodyear LLC (“Squaw Peak”), but since then, Squaw Peak sold a portion of the two parcels to Compass Datacenters PHX I, LLC (“Compass”). As part of the sales transaction, Compass and Squaw Peak entered into an agreement that provided for the allocation of the Cost Recovery Payment between their respective properties. The Cost Recovery Resolution did not provide for such an allocation.

Compass has undertaken certain development activities that would trigger the full payment of the Cost Recovery Payment. Compass is seeking to have the cost recovery payment allocated between the property it acquired from Squaw Peak and the property retained by Squaw Peak. Both Squaw Peak and Compass would like to delay the timing of the payment, with Compass remitting its portion of the Cost Recovery Payment before the issuance of any permit for construction of any vertical structure within the portion of the Compass property generally located north of the Harrison Road alignment. This includes the portion of the original property that was subject to the cost recovery obligation. Squaw Peak will remit its portion of the Cost Recovery Payment, prior to the recordation of the first final plat subdividing all or part of the property it owns or prior to the approval of the first site plan for any development within its property, whichever is earlier.

Because the Cost Recovery Payment is owed to the city, the city has the ability to modify the obligation. The city has allocated cost recovery payment obligations, and staff supports the modifications, which will facilitate the development of the Compass Property.

Attachments

Resolution 2019-2005

Exhibit 1 – Development Agreement for the Reimbursement and Allocation of Cost Recovery Payment w/Exhibits A-C