

AGENDA ITEM #: _____

DATE: October 28, 2019

CAR #: 2019-6808



CITY COUNCIL ACTION REPORT

SUBJECT: First Amendment to Development Agreement for Rainbow Valley

STAFF PRESENTER(S): Gretchen Erwin, Water Resources & Sustainability Manager

OTHER PRESENTER(S): NA

Summary: The First Amendment amends the Rainbow Valley Development Agreement to set forth the terms under which the City will be providing water service to the Property and amends terms as needed to clarify that the City will be providing wastewater to the service to the Property.

Recommendation:

ADOPT RESOLUTION NO. 2019-2009 APPROVING THE FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; DIRECTING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO 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 FIRST AMENDMENT TO DEVELOPMENT AGREEMENT FOR RAINBOW VALLEY; AND PROVIDING FOR AN EFFECTIVE DATE.

Fiscal Impact: As a condition of development, Owner shall, at its sole cost, except as expressly provided in this Agreement, design, install, and/or construct, all infrastructure, on-site and/or off-site, convey all land necessary for such infrastructure, and acquire all capital equipment necessary to allow the City to provide water service to the Property at build out. The City shall be entitled to adopt differentiated rates and fees for water services specific to the Property as reasonably determined by the City to as being needed to cover the costs of providing water services to the Property and for providing for replacement of infrastructure, including the adoption of a rate or surcharge at a level sufficient to pass through to City water customers within the Property the City's costs for CAGRDR replenishment and membership costs related to groundwater used within the Property.

Background and Previous Actions

October 22, 2018 the Mayor and Council of the City of Goodyear adopted Ordinance 2018-1409 rezoning the Property from the Agricultural and Agricultural Urban zoning districts to the Final Planned Area Development zoning district for the development of a mixed-use project known as "Rainbow Valley," which at full build out is expected to result in the development of approximately 2900 residential dwelling units, commercial uses and non-residential uses.

October 22, 2018 the Mayor and Council of the City of Goodyear adopted Ordinance 2018-1409, the Mayor and Council of the City of Goodyear adopted Resolution No. 2018-1908 approving that certain Development Agreement for Rainbow Valley entered into by and between Rainbow Valley 2011, LLC, an Arizona limited liability company and the City of Goodyear, an Arizona municipal corporation.

Prior to the execution of the Rainbow Valley Development Agreement, the property owner secured an Analysis of Assured Water Supply No. 28-700794.0000 (“AAWS”) from the Arizona Department of Water Resources (“ADWR”) that identified a volume of groundwater physically available to serve the Property, which amount is 1,682 AFY. However, without reopening the City’s current Designation of Assured Water Supply (DAWS) to include the water supply in the property owner’s AAWS, the City’s ability to serve the Property is limited to the supply available under its current DAWS. Accordingly, the City did not commit to providing water and wastewater service to the Property in the Rainbow Valley Development agreement, but the agreement expressly provided that the decision as to whether the City is to provide water and wastewater service to the Property was at the City’s sole discretion. The Owner and the City have met and conferred and reached an agreement as to the terms for the City providing water service under its current Designation of Assured Water Supply.

Staff Analysis

The City determined that it wants to provide water and wastewater services to the Property. The Property is not located within the City’s current Designation of Assured Water Supply (DAWS). City staff evaluated several options to allow for water and wastewater services to the property including a private provider and a community facility district. Neither solution was entirely satisfactory for the City or Owner.

Staff and Owner worked together to craft a solution that would allow the Owner to begin partial development of the property by establishing a satellite service area with the ability to access a limited portion of the City’s DAWS allocated to Rainbow Valley (274 acre-feet per year) in the 2016 Designation Decision and Order. The Owner may plat up to 274 acre-feet per year (AFY) of demand. The City will apply to extend the City’s designation in mid-2023. The City’s application will propose to include the groundwater supply already proven physically available in the property owner’s AAWS of 1,682 AFY, which the Owner has agreed to assign to the City’s designation. Upon application and approval of the City’s extension of the designation, and assuming the approval includes the full amount of the City’s existing groundwater supply recognized as physically available in the Rainbow Valley sub-basin (274 acre-feet per year) and the full amount of the Owner’s AAWS (1,682 AFY), Owner may apply to fully plat the remainder of the Property up to 1682 AFY. If the Arizona Department of Water Resources (“ADWR”) does not recognize the full amounts as still physically available as set forth above, Owner will have the ability to plat the Property up to the volume of groundwater actually approved by ADWR subject to the allocation in the development agreement.

Including the Property in the City’s DAWS allows the City to maintain control of water service to the residents, including water quality and distribution. This agreement also allows the City to

maintain control of the wastewater services and reclaimed water to use for replenishment or for other reuse purposes that benefit the residents of the Property.

Attachments

1. Resolution 2019-2009
2. Ex. 1 – Amended Development Agreement