

AGENDA ITEM #: _____

DATE: June 8, 2020

CAR #: 2020-6969



CITY COUNCIL ACTION REPORT

SUBJECT: Approve Development Agreement for Expansion of Rainbow Valley Water Reclamation Facility

STAFF PRESENTER(S): Sarah Chilton, Deputy City Attorney

OTHER PRESENTER(S): None

Summary: Approval of the Development Agreement for the Expansion of the Rainbow Valley Water Reclamation Facility will provide for the partial termination of the existing odor easement allowing residential development with Estrella Parcels 9.22 and 9.24 A&B, while ensuring that the noise, odor and aesthetic controls needed for residential development will be constructed when the Facility is expanded.

Recommendation:

ADOPT RESOLUTION NO. 2020-2067 APPROVING DEVELOPMENT AGREEMENT FOR EXPANSION OF RAINBOW VALLEY WATER RECLAMATION FACILITY; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT THE INTENT OF THE RESOLUTION AND DEVELOPMENT AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

Fiscal Impact: The approval of this development agreement will have an indirect fiscal impact on the city. Additional residential development within Estrella Parcels 9.22 and 9.24 A&B may occur within the area of an odor easement that will be released pursuant to the development agreement. Although a fiscal analysis has not been conducted, this additional development will have an ongoing fiscal impact on the city. Future development is responsible for construction of all public infrastructure necessary to serve the site and will generate one-time revenue for the city through payment of plan review and permits, construction sales tax and development impact fees. 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.

Background and Previous Actions

This request is related to the development of approximately 53.065 acres of land commonly known as Parcel 9.22 and 9.24 A&B. Parcel 9.22 and 9.24 A&B is located within the Montecito Phase 3 PAD and is generally located on the southwest side of the intersection of W. Willis Road

and Estrella Parkway. The final plat for Parcel 9.22 and 9.24 A&B, however, is being presented by separate action.

Staff Analysis

NNP III – Estrella Mountain Ranch LLC, a Delaware limited liability company, NNP III – EMR 3, LLC, a Delaware limited liability company, and NNP III – EMR 4, LLC, a Delaware limited liability company (collectively "NNP") and an affiliate, Special AZ Properties I, LLC, an Arizona limited liability company, acquired a portion of the approximately 20,000 acres of land within the master planned community known as "Estrella" and is in the process of developing the property (the "Estrella Property"). When NNP acquired the Estrella Property, NNP became the successors in interest and/or assignees to the various agreements between the city and the former owners of the Estrella Property, including the agreement between the city and AMCOR Investments Corporation ("AMCOR"), the original developer of Estrella, dated August 11, 1986, (the "Master Agreement") which required AMCOR and its successors and assigns to plan, design and construct such water and sewer treatment facilities as needed to serve the Estrella property. Pursuant to the terms of the Master Agreement, the City and Sun MP LLC entered an agreement dated December 3, 2003 titled the Goodyear-Sun MP Rainbow Valley Water Reclamation Facility Agreement (the "RVWRF Agreement") providing for the construction of a wastewater treatment facility with a total capacity of up to 16 million gallons per day (mgd) to be known as the Rainbow Valley Water Reclamation Facility (the "Facility"), funded by Sun MP subject to reimbursement from applicable development impact fees. NNP became a party to the RVWRF Agreement pursuant to an assignment with the consent of the city.

Pursuant to the RVWRF Agreement, the first phase of the Facility was constructed with the capacity of .75 mgd ("Phase One Improvements"). The RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and the Phase One Improvements do not include such controls. However, under applicable state regulations, certain types of development, including residential development, are prohibited from being located within 350 feet of a sewage treatment facility in which full noise, odor and aesthetic controls are installed; and, if full noise, odor and aesthetic controls are not installed on a sewage treatment facility, those same types of development are prohibited from being located within 1,000 feet of such sewage treatment facility.

Because the RVWRF Agreement does not require the installation of full noise, odor and aesthetic controls, and because the Phase One Improvements do not include such controls, NNP III-Estrella Mountain Ranch, LLC, which then owned the land immediately adjacent to the site where the Facility is to be constructed, entered into that certain Land Use Agreement and Perpetual Easement Restricting Land Uses adjacent to the Rainbow Valley Water Reclamation Facility and Providing for Noise and Odor Setbacks recorded in the Official Records of Maricopa County Arizona at document 2006-0299531 (the "Noise and Odor Easement"). The Noise and Odor Easement prohibits residential development within 1,000-feet of the site where the Facility will be located at full build-out (the "Easement Area"), but allows for the reduction of the boundaries of the Easement Area from 1000-feet to 350-feet after full noise, odor and aesthetic controls are installed on the Facility at full build-out.

NNP would like to develop a residential subdivision within a portion of the current Easement Area located within Estrella Parcels 9.22 and 9.24 A&B, before the Facility has been fully built-out and

before noise, odor and aesthetic controls have been installed on the built-out Facility and on the Phase One Improvements. The proposed development agreement requires that full noise, odor and aesthetic controls be installed for all expansions of the Facility. In exchange, the city is to record a Partial Termination of Odor Easement, releasing a portion of the Easement Area from the easement, thereby allowing the area being released to be developed for residential uses. Following the recordation of the Partial Termination of Odor Easement, there will still be a 1000-foot easement around the foot print of the Phase One Improvements (the existing .75 mgd facility) and a 350-foot easement around the entire site for the Facility at build-out (the 16 mgd facility).

Staff supports the proposed development agreement providing for the partial termination of the existing odor easement because it allows additional residential development with Estrella Parcels 9.22 and 9.24 A&B while ensuring that the noise, odor and aesthetic controls needed for residential development, to be located within the area being released from the odor easement, will be constructed when the Facility is expanded.

Attachments

1. Resolutions 2020-2067

- Exhibit A – Development Agreement for the Expansion of Rainbow Valley Water Reclamation Facility