

RESOLUTION 2354

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO THE CHILSON RANCH DEVELOPMENT AGREEMENT.

WHEREAS, the Town and Hurlburt Development, Inc. (the "Developer") entered into a Development Agreement dated March 15, 2006 (the "Agreement"); and

WHEREAS, the Town and Developer amended the Agreement during March 2007, and recorded such Amendment in the official records of Gila County Arizona on April 4, 2007, at recording number 2007-005746; and

WHEREAS, the Developer has submitted an application for a Conditional Letter of Map Revisions ("CLOMR") to the Federal Emergency Management Agency ("FEMA") for that portion of the Development located within the FEMA floodway; and

WHEREAS, the Developer desires to submit a Final Plat for the Development and improvement plans (for the area outside of the FEMA floodway) prior to receipt of a CLOMR; and

WHEREAS, Section 1.1(e) of the Agreement requires that Developer have a CLOMR prior to submittal of its final plat and/or prior to approval of the final improvement plans; and

WHEREAS, the Pursuant to Sections 1.1(b) and 5.9 of the Agreement, the Parties desire to amend the Agreement.

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Second Amendment to the Chilson Ranch Development Agreement be and is hereby approved in substantially the form set forth in Exhibit "1" attached hereto.

Section 2. That F. Robert Edwards, Mayor of the Town of Payson, be and is hereby authorized to execute the Second Amendment to the Chilson Ranch Development Agreement, in substantially the form set forth in Exhibit "1" attached hereto and made a part hereof by this reference as though set forth in full at this point.

Section 3. That the Town of Payson be and is hereby authorized to take such other and further measures and actions as are necessary or appropriate to carrying out the terms, provisions and intent of said Second Amendment and this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, by the following vote:

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AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

WHEN RECORDED, RETURN TO:
Silvia Smith, Town Clerk
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT

This Second Amendment to the Development Agreement (the “Amendment”) is entered on this ____ day of _____, 2008, by and between the Town of Payson, a municipal corporation of the State of Arizona (“Town”), and Hurlburt Development, Inc., an Arizona corporation (“Developer”) (collectively the “Parties”).

RECITALS

- A. The Town and Developer entered into that certain Development Agreement dated March 15, 2006, and recorded in the official records of Gila County Arizona, on April 18, 2006, at recording number 2006-006654 (the “Agreement”).
- B. The Town and Developer amended the Agreement during March 2007, and recorded such amendment in the official records of Gila County Arizona, on April 4, 2007, at recording number 2007-005746.
- C. Developer has submitted an application for a Conditional Letter of Map Revisions (“CLOMR”) to the Federal Emergency Management Agency (“FEMA”) for that portion of the Development located within the FEMA floodway.
- D. Developer desires to submit a Final Plat for the Development and improvement plans (for the area outside of the FEMA floodway) prior to receipt of a CLOMR.
- E. Section 1.1(e) of the Agreement requires that Developer have a CLOMR prior to submittal of its final plat and/or approval of the final improvement plans.
- F. Pursuant to Sections 1.1(b) and 5.9 of the Agreement, the Parties desire to amend the Agreement.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and agreements set forth herein, the Parties hereto state, confirm and agree as follows:

1. Section 1.1(e) of the Agreement is hereby amended and as amended shall read as follows:

1.1(e) Grading and Drainage Plans. The Developer and the Town understand and agree that the following items shall be completed prior to approval of any improvement plans by Town Staff and prior to approval of any final plat by the Town Council: (1) Grading and Drainage Plans shall be prepared by an Arizona Registered Civil Engineer in accordance with all applicable Town, State, and Federal requirements and (2) the Northern Gila County Sanitary District (“NGCSD”) shall be provided evidence and documentation satisfactory to it that the proposed construction will not violate any of NGCSD’s permits or cause any water quality degradation of the storm water entering the Green Valley Park lakes.

2. Section 1.1(f) is hereby added to the Agreement and as added shall read as follows:

1.1(f) Conditional Letter of Map Revision. An application for a Conditional Letter of Map Revisions (“CLOMR”) must be submitted to the Federal Emergency Management Agency (FEMA) prior to (1) the approval of any improvement plans for areas not within the FEMA floodway and (2) the approval of a Final Plat for the Development. The Town will not approve any improvement plans for, nor shall any disruption or construction occur in, any area within the FEMA floodway prior to the receipt of a CLOMR from FEMA. The FEMA floodway shall be delineated by a fence or similar barrier in the field during construction.

3. All other terms and conditions of the Agreement except as specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year set forth above.

HURLBURT DEVELOPMENT, INC.,
an Arizona corporation

TOWN OF PAYSON,
An Arizona municipal corporation

By _____
Hallie Overman, President

By _____
F. Robert Edwards, Mayor

ATTESTED BY:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney

STATE OF ARIZONA)
) ss.
County of _____)

The foregoing Development Agreement was acknowledged before me this ____ day of _____, 2008, by Hallie Overman, the President of HURLBURT DEVELOPMENT, INC., an Arizona corporation, for and on behalf of said corporation

Notary Public

My Commission Expires:

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing Development Agreement was acknowledged before me this ____ day of _____, 2008, by F. Robert Edwards, the Mayor of the Town of Payson, for and on behalf of the Town.

Notary Public

My Commission Expires: