



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: October 17, 2017

Title: AMENDMENT (#5) TO THE DEVELOPMENT AGREEMENT BETWEEN PIMA COUNTY, ARIZONA AND TNR&S ACQUISITIONS, INC. REGARDING OMNI TUCSON NATIONAL RESORT AND SPA

Introduction/Background:

Omni Tucson National Resort and Spa requests to extend the time frame to begin using reclaimed water to irrigate their golf course by two years.

Discussion:

The Board of Supervisors previously approved similar extensions in order for Omni Tucson National Resort and Spa to be better positioned to secure a PGA event. The event has been secured and will occur on site in 2018 and 2019.

Conclusion:

Another amendment is required to extend the terms of the development agreement.

Recommendation:

Staff was informed by the Tucson Conquistadores that they have reached an agreement with Omni Tucson National Resort and Spa for continuation of a PGA event. Staff recommends approval of the amendment to the development agreement.

Fiscal Impact:

N/A

Board of Supervisor District:

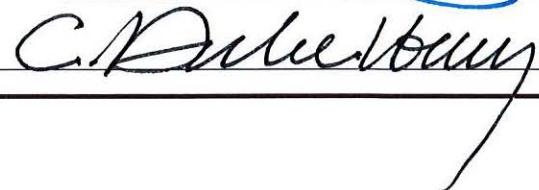
1 2 3 4 5 All

Department: Development Services Department - Planning Telephone: 520-724-9000

Contact: Thomas Drzazgowski Telephone: 520-724-6675

Department Director Signature/Date: 

Deputy County Administrator Signature/Date:  9/29/17

County Administrator Signature/Date:  9/29/17



TO: HONORABLE BOARD OF SUPERVISORS
FROM: Chris Poirier, Planning Official 
DATE: September 22, 2017
SUBJECT: **AMENDMENT (#5) TO THE DEVELOPMENT AGREEMENT BETWEEN
PIMA COUNTY, ARIZONA AND TNR&S ACQUISITIONS, INC.
REGARDING OMNI TUCSON NATIONAL RESORT AND SPA**

The above referenced Development Agreement is scheduled for the Board of Supervisors' **TUESDAY, OCTOBER 17, 2017** hearing.

Amendment (#5) to the Development Agreement between Pima County, Arizona and TNR&S Acquisitions, Inc. regarding Omni Tucson National Resort and Spa

Background

In 2005, the Board of Supervisors entered into a development agreement with TNR&S Acquisitions, Inc. and Stewart Title Trust of Tucson T-3526 and T-3527 regarding the development of rezoned land adjacent to Omni Tucson National Resort and Spa. The agreement includes terms for dedication of lands along the Canyon del Oro Wash and requires that Omni Tucson National Golf Course utilize reclaimed water. The agreement requires that Tucson National purchase and use reclaimed water within 180 days after Metropolitan Water constructs a delivery line. The delivery line is currently in place.

Omni Tucson National Resort and Spa is requesting an extension from September 25, 2017 to September 25, 2019 for the obligation to begin using reclaimed water. An agreement between the Tucson Conquistadores and OMNI Tucson to continue the PGA event has occurred. PGA Tour Champions Tournaments are scheduled to occur in 2018 and 2019.

The first two amendments to the development agreement were in regards to the wash dedication and trail construction. The third and fourth amendments provided flexibility (time extension) to the golf course requirement to hook up to reclaimed water.

Recommendation

Staff recommends that the Board of Supervisors approve the amended development agreement as presented. Continuing and expanding the PGA event would provide a significant economic development boost to the region.

Sincerely,

Chris Poirier
Planning Official

CP/TD

Attachments

c: C.H. Huckleberry, County Administrator
Carmine DeBonis Jr., Deputy County Administrator for Public Works
Carla Blackwell, Director, Development Services
Andrew Flagg, Deputy County Attorney

When recorded, return to:

County Administrator's Office
130 W. Congress
10th Floor
Tucson AZ 85701

For Recorder's Use

**AMENDMENT FIVE TO
DEVELOPMENT AGREEMENT
between
PIMA COUNTY, ARIZONA
and
TNR&S ACQUISITION, INC.**

AMENDMENT FIVE TO DEVELOPMENT AGREEMENT

This Amendment Five to Development Agreement ("Amendment Five"), for reference purposes dated _____, 2017, is by and between PIMA COUNTY, ARIZONA, a body politic and corporate ("County" or "Pima County") and TNR&S ACQUISITION, INC., an Arizona corporation ("TNR&S" or "Developer").

RECITALS

- A. County and Developer are parties to the Development Agreement recorded on September 27, 2005, in Docket 12647, Page 636, and re-recorded to insert documentation for Exhibit E in Docket 12740, Page 1447, of the Official Records of the County Recorder, Pima County, Arizona (the "Development Agreement"); and amended by Amendment One, recorded on May 22, 2008, in Docket 13312, Page 916 of the Official Records of the County Recorder, Pima County, Arizona; and amended by Amendment Two, recorded on July 14, 2009, in Docket 13599, Page 3111, in the Official Records of the County Recorder, Pima County, Arizona; and further amended by Amendment Three, recorded on October 28, 2014, at Sequence 20143010255; and further amended by Amendment Four, recorded September 22, 2016, at Sequence 20162660599 in the Official Records of the County Recorder, Pima County, Arizona. Except as otherwise expressly provided in this Amendment Five, all capitalized terms used in this Amendment Five have the same meanings given to those capitalized terms in the Development Agreement and prior amendments.
- B. Paragraph 2.5 of the Development Agreement establishes the terms, conditions, and timing of Developer's obligation to purchase and use reclaimed water on the Development Property. Paragraph 2.5.1.2 of the Development Agreement requires Developer to purchase and use reclaimed water commencing no later than a "Commencement Date" that is defined as one hundred and eighty (180) days after completion of a New Line to the boundary of the Dedication Property.
- C. The New Line has been satisfactorily completed. Therefore the contingency set forth in Section 2.5.1.1 of the Development Agreement has been satisfied.
- D. Developer has asked to extend the Commencement Date to September 25, 2019 because Developer will be hosting a PGA TOUR Champions Tournament Event at the Resort in 2018 and 2019.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. **Recitals Incorporated.** Each of the Recitals set forth above is hereby incorporated into this Amendment Five by reference. Each party acknowledges the accuracy of the statements in the Recitals.

2. **Extension of Commencement Date.** The “Commencement Date” defined in Paragraph 2.5.1.2 of the Development Agreement is hereby changed to September 25, 2019.

3. **Effect of Amendment.** The Development Agreement, as amended by Amendment One, Amendment Two, Amendment Three, Amendment Four and this Amendment Five, is hereby ratified, affirmed, and approved and shall remain in full force and effect. County and Developer each acknowledge that, as of the date of this Amendment Five, the other party is not in default under the Development Agreement.

4. **Authority of Developer.** Developer represents and warrants that TNR&S is the same entity identified in the Development Agreement as “TNR&S Acquisition, Inc., a Delaware corporation,” and that TNR&S currently holds fee title to the entire Resort and the entire Development Property, except any subdivided lots that are no longer subject to the Development Agreement as described in paragraph 12.14 of the Development Agreement.

5. **Counterparts.** This Amendment Five may be executed in counterparts, each of which is deemed an original, but all of which together constitute one and the same instrument.

6. **Recordation.** Promptly upon the full execution of this Amendment Five by the Parties, County will cause this Amendment Five to be recorded in the Official Records of the County Recorder, Pima County, Arizona.

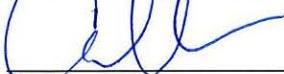
PIMA COUNTY

Chair, Pima County Board of Supervisors
Date: _____

ATTEST:

Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Deputy Pima County Attorney

ANDREW FLAGG

TNR&S ACQUISITION, INC., an Arizona corporation

By: _____

Title: _____

Date: _____

Printed Name: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, _____, of TNR&S Acquisition, Inc., an Arizona corporation, on behalf of the corporation.

Notary Public

My Commission Expires:

RESOLUTION 2017-_____

A RESOLUTION OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDED DEVELOPMENT AGREEMENT BETWEEN PIMA COUNTY AND TNR&S ACQUISITION, INC.

The Board of Supervisors of Pima County, Arizona finds that:

1. Pima County (the "County") may, pursuant to A.R.S. § 11-1101, enter into development agreements relating to property located in unincorporated Pima County.
2. The County and TNR&S Acquisition Inc., an Arizona corporation ("Developer"), previously entered into a development agreement, and subsequently amended it four times (the "Development Agreement").
3. Section 2.5 of the Development Agreement establishes a deadline by which Developer must begin purchasing and using reclaimed water on certain resort property owned by Developer.
4. Developer has asked to extend that deadline, for financial reasons, because the Developer has secured a Seniors Professional Golf Association tournament for Calendar Year 2018 & 2019 at the resort.
5. The Board of Supervisors supports Developer's efforts to operate a Seniors PGA event because it would bring an economic benefit to the region.
6. Under A.R.S. § 11-1101, the Development Agreement may be amended by mutual consent of the parties.

NOW, THEREFORE, IT IS RESOLVED:

1. Amendment Five to the Development Agreement, in the form presented to the Board of Supervisors, is approved.
2. The Chair of the Board is authorized and directed to sign Amendment Five on behalf of the County.
3. The various officers and employees of the County are authorized and directed to perform all acts necessary and desirable to give effect to this Resolution and the amended Development Agreement.

Passed and adopted, this _____ day of _____, 2017.

Chair, Pima County Board of Supervisors

ATTEST:

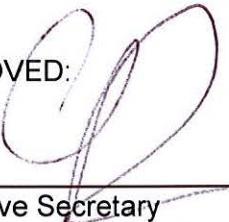
Clerk of the Board

APPROVED AS TO FORM:

Deputy County Attorney


ANDREW FLAGG

APPROVED:



Executive Secretary
Planning and Zoning Commission