



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: September 6, 2016

AMENDMENT (#4) TO THE DEVELOPMENT AGREEMENT BETWEEN PIMA COUNTY, ARIZONA AND
TNR&S ACQUISITIONS, INC.

Title: REGARDING OMNI TUCSON NATIONAL RESORT AND SPA

Introduction/Background:

Omni Tucson National Resort and Spa requests to extend the time frame to begin using recalled water to irrigate their golf course by one year.

Discussion:

The Board of Supervisors previously approved a similar extension to September 25, 2016 in order for Omni Tucson National Resort and Spa to be better positioned to secure a PGA event.

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:

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Board of Supervisor District:

☒ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ All

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

Department Director Signature/Date: _____

Deputy County Administrator Signature/Date: _____

County Administrator Signature/Date: _____

[Handwritten signatures and dates]
8-24-16
8/24/16
C. Duckert
8/25/16



TO: HONORABLE BOARD OF SUPERVISORS

FROM: Chris Poirier, Planning Official

DATE: August 23, 2016

SUBJECT: AMENDMENT (#4) 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, SEPTEMBER 6, 2016** hearing.

Amendment (#4) 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, 2016 to September 25, 2017 for the obligation to begin using reclaimed water. An agreement between the Tucson Conquistadores and OMNI Tucson to continue the PGA event has occurred. The Tucson Conquistadores have notified county staff that an agreement has been reached for 2017.

The first two amendments to the development agreement were in regards to the wash dedication and trail construction. The third amendment 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. Huckelberry, County Administrator
John Bernal, Deputy County Administrator for Public Works
Carmine DeBonis, Jr., 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 FOUR TO
DEVELOPMENT AGREEMENT**

between

PIMA COUNTY, ARIZONA

and

TNR&S ACQUISITION, INC.

AMENDMENT FOUR TO DEVELOPMENT AGREEMENT

This Amendment Four to Development Agreement ("Amendment Four"), for reference purposes dated _____, 2016, 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, in the Official Records of the County Recorder, Pima County, Arizona. Except as otherwise expressly provided in this Amendment Four, all capitalized terms used in this Amendment Four 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, 2017 because Developer is in discussions with the Professional Golf Association (PGA) to host a Seniors Professional Golf Association Tournament Event at the Resort in 2017.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. **Recitals Incorporated.** Each of the Recitals set forth above is hereby incorporated into this Amendment Four 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, 2017.

3. **Effect of Amendment.** The Development Agreement, as amended by Amendment One, Amendment Two, Amendment Three, and this Amendment Four, 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 Four, 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 Four 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 Four by the Parties, County will cause this Amendment Four 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

By: _____
 Title: _____
 Date: _____
 Printed Name: _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, _____, of TNR&S Acquisition, Inc., an Arizona corporation, on behalf of the corporation.

My Commission Expires:

RESOLUTION 2016-_____

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 thrice (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, while Developer attempts to secure a Seniors Professional Golf Association tournament for Calendar Year 2017 at the resort.
5. The Board of Supervisors supports Developer's efforts to secure 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 Four 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 Four 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 _____, 2016.

Chair, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

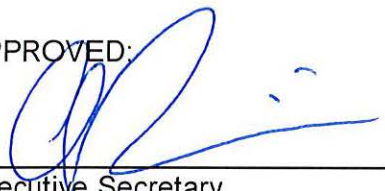
APPROVED AS TO FORM:



Deputy County Attorney

ANDREW FLAGG

APPROVED:



Executive Secretary
Planning and Zoning Commission