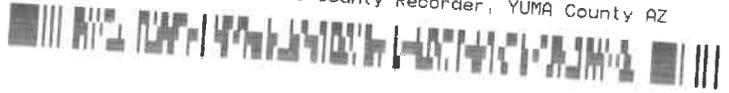


2020-35006 RESOLUTION
11/16/2020 04:19:38 PM Pages: 15 Fees: \$15.00
Requested By: CSL (RECORDING & COPIES)
Recorded By: cromero
Robyn Stallworth Piquette County Recorder, YUMA County AZ



WHEN RECORDED MAIL TO:

**CITY OF SAN LUIS
ATTN: CITY CLERK
P.O. BOX 1170
SAN LUIS, ARIZONA 85349**

The above area is to be reserved for recording information

CAPTION HEADING:

RESOLUTION

Resolution No. 2146

Approving Las Quintas De San Luis 3 Development Agreement between the City of San Luis and Riedel Holdings.



Resolution

OFFICE OF THE
MAYOR
CITY OF SAN LUIS

NO. 2146

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA APPROVING LAS QUINTAS DE SAN LUIS 3 DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SAN LUIS, ARIZONA AND RIEDEL HOLDINGS, L.L.C. AND REPEALING RESOLUTION NO. 2058.

WHEREAS, on October 10, 2018, the City of San Luis passed Resolution No. 2058 approving a development agreement with Riedel Holdings, L.L.C. the for Las Quintas de San Luis 3 subdivision project to be located in San Luis, Arizona; and

WHEREAS, two years later on October 13, 2020, the City of San Luis Planning Commission recommended approval of a zone change from R1-6 to R1-20 triggering a need for a new Development Agreement; and

WHEREAS, the City of San Luis and Nieves Riedel, Riedel Holdings, L.L.C.; Owner, desire to enter into a new development agreement for Las Quintas de San Luis 3 subdivision project; and

WHEREAS, Edais Engineering, Inc. is agent for the Owner; and

WHEREAS, A.R.S. § 9-500.05 grants power to a municipality to enter into development agreements; and

WHEREAS, the applicant and the city staff agreed to all matters in the City's proposed development agreement; and

WHEREAS, A.R.S. § 9-462.01 grants power to a municipality to impose conditions upon a change of zoning;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of San Luis, State of Arizona, as follows:

SECTION 1. That Resolution No. 2058 is hereby repealed;

SECTION 2. That the development agreement proposed by the staff of the City of San Luis, Arizona attached hereto as Exhibit "A," is hereby approved contingent upon rezoning to R1-20 passing;

SECTION 3. That the development agreement proposed by city staff is a condition upon rezoning to R1-20 if the rezoning passes.

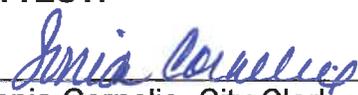
PASSED AND ADOPTED by the Mayor and City Council of the City of San Luis, Arizona, this 10th day of November 2020.

APPROVED:



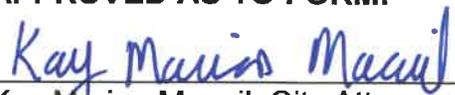
Gerardo Sanchez, Mayor

ATTEST:



Sonia Cornelio, City Clerk

APPROVED AS TO FORM:



Kay Marion Macuil, City Attorney

LAS QUINTAS DE SAN LUIS 3 DEVELOPMENT AGREEMENT

Rezoning Case Number 2020-0474

10th THIS DEVELOPMENT AGREEMENT (the “Agreement”) is entered into as of this day of November 2020 (“Effective Date”) by and between the City of San Luis, an Arizona municipal corporation (the “City”), and Nieves Riedel, Riedel Holdings, L.L.C. a limited liability corporation organized under the laws of Arizona, (the “Owner”). The City and the Owner may be referred to singularly as the “Party” and collectively as the “Parties.”

RECITALS

A. WHEREAS, A.R.S. § 9-500.05 authorizes the City to enter into development agreements with landowners and persons having an interest in real Property that is located in the City; and

B. WHEREAS, Nieves Riedel, Riedel Holdings, L.L.C.; Owner, owns approximately 10.52 acres located in the municipal limits of the City (the “Property”) real Property located north of County 22 Street and east of the East Main Canal is more specifically described herein; and

C. WHEREAS, the Owner has requested rezoning of the Property from Medium Density Residential (R-12) to Medium Density Residential (R1-20); and

D. WHEREAS, the City’s governing body has authorized execution of this Agreement by Resolution No. 2146.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

DEFINITIONS

The following terms shall have the meanings set forth below whenever used in this Agreement, except where the context clearly indicates otherwise:

Agreement shall mean this development agreement.

City shall mean and refer to the City of San Luis, an Arizona municipal corporation, and any successor public body or entity.

Improvements shall mean and refer to all public and private improvements which may be constructed from time to time on the Property, including, without limitation, all structures, buildings, roads, driveways, parking areas, walls, landscaping, and other improvements of any

type or kind, or any other alteration of the natural terrain to be built by the Owner or the City, as the case may be, pursuant to the terms of the Agreement.

Owner shall mean and refer to Nieves Riedel, Riedel Holdings, L.L.C., and any successor in ownership.

Property as used in this Agreement shall mean and refer to all of the real Property, which is legally described in Exhibit 1.

ARTICLE 1. DEVELOPMENT PLAN

1.1. Duration of Development Agreement. The term of this Agreement shall be for a period of ten (10) years from date of execution.

1.2. Failure of Timely Performance. In the event that either Party hereto fails to perform any of its obligations which are set forth in or contemplated by this Agreement in a timely manner, and should such failure not otherwise be excused by Agreement of the Parties or by the terms of this Agreement, such failure shall be considered to be a breach of this Agreement and the non-breaching Party shall have their respective remedies set forth in Section 5.3 of this Agreement.

1.3. Review Process. The City acknowledges the necessity for expeditious review by the City of all plans and other materials (“**Submitted Materials**”) submitted by the Owner to the City hereunder or under any zoning procedure, permit procedure, or other governmental procedure pertaining to the development of the Property and agrees to use its reasonable efforts accomplish such an expeditious review of the Submitted Materials whenever possible.

ARTICLE 2. SPECIAL PROVISIONS FOR INFRASTRUCTURE

2.1 The Owner shall have a traffic study conducted at the Owner’s expense in accordance with said Public Works Standards of the City of San Luis and shall construct or provide for the construction and/or development of all improvements required by the said study as a condition for issuance of any permit authorizing construction or development. Improvements shall also comply with the City’s Ordinance No. 390.

2.2 Owner agrees to provide off-site drainage. Water retention/detention areas may be counted towards the 2% Open Space required by the Zoning Regulations (Chapter 152 Table No. 2). The required 2% for Las Quintas 3 Subdivision is 0.2104 acres.

2.3 Owner agrees to provide a 10” water line and fire hydrants at least every 240 feet. And provide a 54-foot right-of-way for Quintero Avenue, as shown in Exhibit 2.

2.4 Owner agrees to provide curb, gutter, and sidewalk on the north side of County 22nd Street between Las Quintas De San Luis 3 subdivision and 10th Avenue.

2.5 Grading and erosion control shall comply with the 2003 International Building Code Appendix J standards for all aspects of the development, including developing lots and building houses or other buildings. The Owner shall provide a system for effective

future maintenance of all improvements needed or necessary to maintain grading and erosion control after development of the subdivision. Such future maintenance shall include, but shall not be limited to and as an example only, placing common improvements such as retaining walls in common areas and establishing a homeowner's association to maintain same.

2.6 Owner agrees to sign necessary improvement districts for the subdivisions of the rezoned parcel. Said districts to include a street lighting improvement district, a community facilities district, and a parkway district pursuant to A.R.S. § 48-572.

2.7 Owner agrees to obtain ownership of necessary right-of-way for improvements.

2.8 Owner agrees to submit complete full-set of plans at the time of the preliminary plat application. Said plans to include plans for landscaping to comply with § 152.298 of the Zoning Regulations. In the alternative for the provision of landscaping, Owner agrees to submit an engineer's cost estimate for compliance with landscaping to the satisfaction of the Public Works Director, and to pay to the City an amount equal to said estimate. Said monies to be used by City to provide future landscaping to city rights of way or other public Property in or near the Property.

2.9 Offset from a collector street should be set at a safe distance for construction of required turn lanes and safe turning movements.

2.10 The terms of this Agreement are in addition to City codes, rules, fees and regulations that are applicable to this action.

ARTICLE 3. INDEMNIFICATION

3.1. Owner agrees to defend, indemnify, and hold harmless City, its officers, officials, and employees ("**Indemnified Group**") from and against claims, damages, losses, and expenses of any nature whatsoever (including but not limited to reasonable attorney fees, financial fees, court costs, the costs of appellate proceedings, and all claim adjusting and handling expense), relating to, arising out of, resulting from or alleged to have resulted from the Owner's acts, errors, mistakes or omissions relating to any action or inaction of the Owner under this Agreement, including but not limited to work or services in the performance of this Agreement by any subcontractor or anyone directly or indirectly employed by or contracting with the Owner or a subcontractor or anyone for whose acts any of them may be liable.

3.2. If any claim, action, or proceeding is brought against the Indemnified Group, by reason of any event that is the subject of this Agreement, Owner (at its sole cost and expense) shall pay, resist or defend such claim or action on behalf of the Indemnified Group by the attorney of the Owner, or if covered by insurance, Owner's insurer, all of which must be approved by City, which approval shall not be unreasonably withheld or delayed. The City shall cooperate with all reasonable efforts in the handling and defense of such claim. Notwithstanding the foregoing, the City may engage its own attorney to defend or assist in its defense, and the Owner shall pay the reasonable costs and expenses thereof.

3.3. Any settlement of claims must fully release and discharge the Indemnified Group from any liability for such claims. The release and discharge shall be in writing and shall be subject to approval by the City, which approval shall not be unreasonably withheld or delayed. If Owner neglects or refuses to defend any of the Indemnified Group as required by this Agreement, any recovery or judgment against the Indemnified Group for a claim covered by this Agreement shall conclusively establish Owner's liability to the Indemnified Group in connection with such recovery or judgment. If the City desires to settle such dispute, the City shall be entitled to settle such dispute in good faith, and Owner shall be liable for the amount of such settlement, and all expenses in connection with such settlement.

3.4. The indemnity provisions of this Agreement shall survive the termination of this Agreement.

ARTICLE 4. SUB AGREEMENTS

4.1. Subordinate Development Agreements. The City and Owner hereby acknowledge that the development of the Property may be accomplished by Owner through a series of sales, leases, joint ventures, and/or other agreements and arrangements with experienced developers, investors, and/or owners of real Property. In connection therewith, it is anticipated and contemplated by the parties that such developers, investors, or owners may desire to negotiate and enter into separate and subordinate development agreements with the City and/or Owner with respect to infrastructure improvements, uses, plan approvals and other similar matters which may be the subject of separate agreements between such developers, investors and owners and the City and/or Owner, all to be set forth in the Amended Agreement. The Parties hereby agree that any and all development agreements entered into with any such developer, investor, or Owner of any parcels of the Property shall be subordinate in all respects to the terms and conditions of this Agreement and the Amended Agreement, and, in the event of any conflict or discrepancy between the provisions of any such development agreement and the terms and conditions of this Agreement or the Amended Agreement, this Agreement or the Amended Agreement (as the case may be) shall govern and control.

ARTICLE 5. MEDIATION AND DEFAULT

5.1. Representatives. To further the cooperation of the parties in implementing this Agreement, the City and Owner each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Owner. The initial representative for the City (the "**City Representative**") shall be the City Manager, and the initial representative for the Owner shall be its project manager, as identified by the Owner from time to time (the "**Developer Representative**"). The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property.

5.2. Mediation. In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the Parties agree that there shall be a forty-five (45) day moratorium

P.O. Box 1170
1090 E. Union Street
San Luis, Arizona 85349

If to the Owner: Nieves Riedel, Riedel Holdings, L.L.C.
P.O. Box 1649
1950 Cesar Chavez Blvd, Suite G
San Luis, Arizona 85349

or to such other addresses as either Party may, from time to time, designate in writing and deliver in a like manner. Any such change of address notice shall be given at least ten (10) days before the date on which the change is to become effective. Notices given by mail shall be deemed delivered 72 hours following deposit in the United States Postal Service in the manner set forth above.

7.2. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the parties of the breach of any provision of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or of any other provision of this Agreement.

7.3. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions of the Agreement.

7.4. Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement and that all necessary actions have been taken to give full force and effect to this Agreement. The Owner represents and warrants that it is duly formed and validly existing under the laws of the State of Arizona and that it is duly qualified to do business in the State of Arizona and is in good standing under applicable state laws. The Owner and the City warrant to each other that the individuals executing this Agreement on behalf of their respective parties are authorized and empowered to bind the Party on whose behalf each individual is signing. The Owner represents to the City that by entering into this Agreement, the Owner has bound the Property and all persons and entities having any legal or equitable interest therein to the terms of the Agreement.

7.5. Entire Agreement. This Agreement, including the following exhibits, constitutes the entire Agreement between the Parties. This provision applies only to the entirety of Agreement Number 1 only; additional and separate zoning stipulations and agreements with the City may apply to the Property, and this provision has no effect on them.

Exhibit 1 Legal Description of Property

Exhibit 2 Conceptual Plan

7.6. Amendment of the Agreement. This Agreement may be amended, in whole or in part, and with respect to all or any portion of the Property, only with the mutual written consent

of the parties to this Agreement or by their successors in interest or assigns. The City shall record the amendment or cancellation in the official records of the Yuma County Recorder.

7.7. Severability. If any other provision of the Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect.

7.8. Governing Law. The laws of the State of Arizona shall govern the interpretation and enforcement of this Agreement. The Parties agree that venue for any action commenced in connection with this Agreement shall be proper only in a court of competent jurisdiction located in Yuma County, Arizona, and the Parties hereby waive any right to object to such venue.

7.9. Recordation of Agreement and Subsequent Amendment; Cancellation. This Agreement and any amendment or cancellation of it shall be recorded in the official records of the Yuma County Recorder no later than ten (10) days after the City and the Owner execute such Agreement, amendment, or cancellation, as required by A.R.S. § 9-500.05.

7.10. Attorneys' Fees and Costs. If either Party brings a legal action either because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party will be entitled to reasonable attorneys' fees and court costs.

7.11. Notice of Conveyance or Assignment. The Owner shall give notice to the City of any sale of the entire Property at least ten (10) days prior to the effective date of the sale.

7.12. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity, not a party hereto shall have any right or cause of action hereunder.

7.13. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the parties.

7.14. Non-Liability of City Officials and Employees. Except for mandamus and other special actions, no member, official or employee of the City shall be personally liable to Owner, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Owner or successor, or under any obligation under the terms of this Agreement.

7.15. Employment Eligibility, E-Verify

1. The Owner warrants his compliance with all federal immigration laws and regulations that relate to its employees and its compliance with A.R.S. § 23-214, subsection A.
2. A breach of a warranty under paragraph 1 shall be deemed a material breach of the Agreement that is subject to penalties up to and including termination of the contract.

3. That the City retains the legal right to inspect the papers of any contractor or subcontractor employee who work on the Agreement to ensure that the contractor or subcontractor is complying with the warranty under paragraph 1.

7.16. Boycott. Owner certifies, to the extent permitted by law, that it does not participate in, and agrees not to participate in during the term of this Agreement a boycott of Israel under A.R.S. § 35-393.01.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

City of San Luis, Arizona

[Signature]
Gerardo Sanchez, Mayor

ATTEST:

[Signature]
Sonia Cornelio, City Clerk

APPROVED AS TO FORM:

[Signature]
Kay Marion Macuil, City Attorney

Riedel Holdings, L.L.C.

Signature

[Signature]
Print Name Nieves Riedel

Title owner / president

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this 17 day of November, 2020, by Nieves Riedel on behalf of Riedel Holding, L.L.C.

[Signature]
Notary Public

My Commission Expires: June 17, 2023

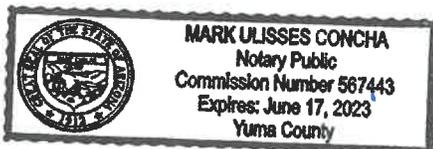


Exhibit 1

Legal Description of Property

Development Agreement Las Quintas de San Luis 3

Assessor Parcel ID no. 211-31-012

LEGAL DESCRIPTION:

**PARCEL B OF THE BORDER RANCHES LOT SPLIT NO. 2 AS RECORDED IN
BOOK 27 OF PLATS, PAGE 66, RECORDS OF YUMA COUNTY, ARIZONA**

Exhibit 2

Conceptual Plan

Development Agreement Las Quintas de San Luis 3

Exhibit 2

