

LEGAL DEPARTMENT
TOWN OF PAYSON
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DEPUTY TOWN ATTORNEY
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M E M O R A N D U M

January 12, 2010

TO: MAYOR AND COMMON COUNCIL
CC: DEBRA A. GALBRAITH, TOWN MANAGER
LaRON GARRETT, PUBLIC WORKS DIRECTOR
FROM: SAMUEL I. STREICHMAN, TOWN ATTORNEY
SUBJECT: HIGHLANDS AT THE RIM
EXTENSION OF DEVELOPMENT AGREEMENT

Pursuant to Paragraph 5.6(b) of the Development Agreement with the Town, the current developers of Highlands at the Rim Subdivision have provided the Town with a request to extend the term of the Agreement for an additional term of ten years. Under the Agreement, one extension is granted as a matter of right, so long as notice is given. The Agreement does not provide for any more extensions after the first one.

The original developer who signed the Agreement is Highlands at The Rim, L.L.C. A portion of the development was later sold to SATR Holdings, LLC. As a result, both entities have requested the extension provided for in Paragraph 5.6(b). A copy of the developers' requests is attached, along with a copy of the relevant paragraph of the Agreement. The new termination date for the Agreement will be January 7, 2021.

SIS:drs
Attachments

JAN 21 2010 C.2

November 25, 2009

Extension of Development Agreement for Highlands at the Rim, LLC

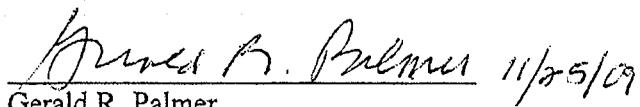
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

Dear Town Clerk:

On January 8, 2001 Highlands at the Rim, LLC entered into a development agreement with the Town of Payson. Per Section 5.6 (b) term, "either party hereto shall have the right to extend the term hereof for (1) additional period of ten (10) years upon written notice delivered to the other at least (1) year prior to expiration hereof."

At this time we request the right to extend development agreement per the terms of section 5.6 (b).

Sincerely,

 *Gerald R. Palmer 11/25/09*

Gerald R. Palmer
Manager of Highlands at the Rim, LLC

GILA CO, AZ, LINDA HAUGHT ORTEGA - RECORDER, BY: TOWN OF PAYSON
 DATE: 01/08/2001 TIME: 09:15 PAGE #: 0009 OF 0036 FEE #: 2001

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5.4 Exhibits. Any exhibit attached hereto shall be deemed to have been incorporated herein by this reference with the same force and effect as if fully set forth in the body hereof.

5.5 Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, the Town shall cooperate in good faith and process promptly any requests and applications for plat or permit approvals or revisions, and other necessary approvals relating to the development of the Property by the Developer and its successors.

5.6 Future Effect.

(a) Time of Essence and Successors. Time is of the essence of this Agreement and all of its parts. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, except as provided in Paragraph 5.6(c) below; provided, however, that the Developer's rights and obligations hereunder may be assigned only by a written instrument, recorded in the official Records of Gila County, Arizona, expressly assigning such rights and obligations. In the event of a complete assignment by Developer of all rights and obligations of Developer hereunder, Developer's liability hereunder shall terminate effective upon the assumption by Developer's assignee, provided that the Town has approved the assignment to such assignee, which approval shall not unreasonably be withheld. Notwithstanding the foregoing, at such time as Developer no longer owns any portion of the Property, its rights hereunder shall automatically terminate.

(b) Term. The term of this Agreement shall commence on the date the last party hereto executes this Agreement, and shall automatically terminate on the tenth (10th) anniversary of such date; provided, however, that either party hereto shall have the right to extend the term hereof for one (1) additional period of ten (10) years upon written notice delivered to the other at least one (1) year prior to the expiration hereof.

(c) Termination Upon Sale to Public. The Town and the Developer hereby acknowledge and agree that this Agreement is not intended to and shall not create conditions or exceptions to title or covenants running with the Property. Therefore, in order to alleviate any concern as to the effect of this Agreement on the status of title to any of the Property, notwithstanding anything contained herein to the contrary, and so long as not prohibited by law, all provisions of this Agreement except for those contained in Section 1 shall terminate without the execution or recordation of any further document or instrument as to any lot which has been finally subdivided and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the end purchaser or user thereof (a "Public Lot") and thereupon such Public Lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

5.7 No Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the Developer and the Town. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

5.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter of this Agreement. All prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are hereby superseded and merged herein.

Development Agreement

Highlands at The Rim, L.L.C./Town of Payson

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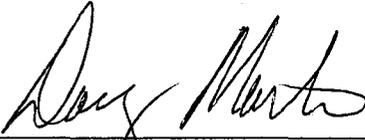
January 7, 2010

To Whom It May Concern:

SATR Holdings, LLC respectfully requests a ten-year extension of the existing development agreement for Highlands at the Rim.



Craig Swartwood, Managing Member



Doug Martin, Managing Member