

RESOLUTION NO. 2021-2187

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE LETTER OF INTENT FOR ACQUISITION OF REAL PROPERTY; AUTHORIZING THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT CONSISTENT WITH THE TERMS OF THE LETTER OF INTENT; AUTHORIZING THE CITY MANAGER OR HER DESIGNEE TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO ACQUIRE THE REAL PROPERTY; AUTHORIZING AND APPROVING THE REQUIRED BUDGET TRANSFER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has determined that it is in their best interest to purchase two (2) properties located in close proximity to the City's Ballpark Facility. The first site is an approximate 49,052 square foot (1.13 Acre) property located at the southeast corner of Goodyear Boulevard and Ballpark Way and is legally described on Exhibit "A" attached hereto and by reference made a part hereof ("Lot 14"). The second site is an approximate 219,400 square foot (5.04 Acre) property located at the southeast corner of Festival Way and Ballpark Way which is legally described on Exhibit "B" attached hereto and by reference made a part hereof ("Lot 19"). Lot 14 and Lot 19, collectively, shall be referred to as (the "Property"); and

WHEREAS, the City has worked with Communities Southwest representing the entities that own Lot 14 and Lot 19 (the "Owner") to enter into the Letter of Intent to purchase the Property. The fully executed Letter of Intent is included as Exhibit "C" and by reference made a part hereof; and

WHEREAS, the purchase price for the Property calculates to approximately \$16.39 per square foot, for a total purchase price of \$4,400,000. This purchase price also includes the rights to the sales tax rebates, the land/swap deed reversionary, and control of the use restriction for Lot 15 of Ballpark Village-Wood Corporate Campus. The purchase price is supported by comparable sales information; and

WHEREAS, in addition to the purchase price, the City will be responsible for paying one-half of the closing costs, which includes apportioned taxes and fees. Staff estimates the cost of the closing costs, legal fees, the cost of having the legal descriptions prepared and other associated fees required to complete this transaction to be an additional \$20,000 over and above the purchase price; and

WHEREAS, in order for the City to purchase the Property it is necessary to create a new account and to complete a budget transfer in the amount of \$4,420,000 from the General Fund to the new account.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. Approve the Letter of Intent attached hereto as Exhibit "C" to purchase the Property as legally described on the attached Exhibit "A" and Exhibit "B."

SECTION 2. Authorize the City Manager to enter into a Purchase Agreement consistent with the terms of the Letter of Intent.

SECTION 3. Authorize and direct the City Manager or her designee to take any and all actions and execute all documents necessary to carry out the intent of this Resolution, and the Letter of Intent, including, by way of example, but not limited to, executing the Purchase Agreement authorized herein, preparing the conveyance documents for the Property; and accepting the Property on behalf of the City.

SECTION 4. Authorize and approve the necessary budget transfer in the total amount of \$4,420,000 to the appropriate new account.

SECTION 5. This Resolution shall become effective upon its adoption by the Mayor and Council of the City of Goodyear.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 20____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION
LOT 14

Lot 14, BALLPARK VILLAGE-WOOD CORPORATE CAMPUS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 996 of Maps, Page 50.

EXHIBIT "B"
LEGAL DESCRIPTION
LOT 19

Lot 19, BALLPARK VILLAGE-WOOD CORPORATE CAMPUS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 996 of Maps, Page 50.

**EXHIBIT “C”
LETTER OF INTENT**

[On the following pages]

City of Goodyear
City Manager's Office



October 20, 2021

Mr. Greg Lehmann
Executive Vice President
Communities Southwest
7001 N. Scottsdale Rd., #1015
Scottsdale, AZ 85253

Re: Letter of Intent – Lots 14 & 19, Ballpark Village-Wood Corporate Campus

Dear Mr. Lehmann,

This Letter of Intent is submitted with the understanding that it is not intended to be contractual in nature, but is merely a statement of general terms and conditions under which the Buyer, is prepared to consider the purchase of the Subject Property (as defined below). Because this Letter of Intent contains only part of the terms of conditions that are normally contained in a Purchase Agreement, in no event whatsoever shall either party have any liability or obligation to the other party with regard to the transaction contemplated by this Letter of Intent unless and until a complete, definitive Purchase Agreement is executed and delivered by both parties.

- 1. Buyer:** City of Goodyear, an Arizona Municipal corporation, hereafter referred to as “Buyer”
- 2. Seller:**

Lot 14: CSWR141 GOODYEAR 14, LLC, an Arizona limited liability company

Lot 19: CSWR141 GOODYEAR 8, LLC, an Arizona limited liability company

Sales Tax Rebates, Use Restriction Lot 15, and Land Swap/Deed Reversionary Rights as per whichever entity may hold those rights

Collectively “Seller”
- 3. Subject Property:** Lots 14 & 19 BALLPARK VILLAGE-WOOD CORPORATE CAMPUS, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, in Book 996 of Maps, Page 60. Including all rights to: Sales Tax Rebates, Use Restriction Lot 15 and Land Swap/Deed Reversionary Rights.



4. **Purchase Price:** \$4,400,000.00
5. **Opening of Escrow:** Buyer shall Open Escrow within three (3) days upon receipt of the fully executed Purchase Agreement. Agent/Office to be determined by Buyer.
6. **Close of Escrow:** Within ninety (90) days from opening escrow.
7. **Earnest Money Deposit:** A ten thousand dollar (\$10,000.00) Earnest Money Deposit shall be deposited with a Title Company within (7) business days of the Opening of Escrow. The Earnest Money Deposit shall be applied to the Purchase Price at the Close of Escrow.
8. **Feasibility Period:** Buyer shall have Sixty (60) days from the opening of escrow to satisfy itself as to the suitability of the Subject Property for the Buyer's intended use ("Feasibility Period").

During the Feasibility Period, Buyer will have the right to inspect the Subject Property. Buyer must insure and indemnify Seller for liability related to these activities. Seller shall permit access to the Subject Property to Buyer and persons and companies as so designated by Buyer, with the right to perform any reasonable non-invasive tests upon the Property that Buyer deems necessary. In the event Buyer discovers any condition(s) that make the property unacceptable to Buyer, Buyer may, at any time during the Feasibility Period, cancel the Purchase Agreement. In the event the Buyer cancels the Purchase Agreement during the Feasibility Period, the Earnest Money Deposit shall be returned to the Buyer, the Purchase Agreement shall be deemed null and void, and neither party shall have any further obligation or liability to the other except any provisions in the Purchase Agreement that survive such cancellation.

Within five (5) working days of the Opening of Escrow, to the extent it has such items in its possession, Seller agrees to provide Buyer the following items listed in Exhibit "1".



9. **Closing Fees & Proportions:** Buyer and Seller shall split all customary escrow fees. Seller shall pay for the Buyer's standard Owner's Title Insurance Policy. Buyer shall pay for extended owner's title insurance policy and endorsements desired by Buyer. Property taxes shall be apportioned and prorated to the close of escrow. Any assessments or liens against the subject property incurred by Seller shall be removed at the close of escrow and Title Company shall be in a position to issue a policy of title insurance to Buyer in the full amount of the Purchase Price showing good and marketable title vested in Buyer subject only to such exceptions to title as have been approved by Buyer during the Feasibility Period.
10. **City Manager & Council Approval:** Any Purchase Agreement resulting from this Letter of Intent will be subject to the review and approval by the City Council of the City of Goodyear. Seller to provide draft of Purchase Agreement.
11. **Brokerage:** Seller acknowledges and hereby confirms that any commission due for this sale/purchase of the Subject Property shall be paid by Seller. Seller represents that it is represented by Land Advisors Organization and will pay said commission. Buyer represents that it has no broker representation.
12. **Termination:** This Letter of Intent will expire, without further notice, at the earlier of the following: on October 20, 2021 at 5:00PM AZ time unless Seller signs and delivers its acceptance of the Letter of Intent before that time; and November 30, 2021 at 5:00 PM AZ time unless a Purchase Agreement mutually acceptable to Buyer and Seller has been executed by Seller.

Sincerely,



Julie Karins,
City Manager

APPROVED AS TO FORM



City Attorney



AGREED AND ACCEPTED

Seller Lot 14:
CSWR141 GOODYEAR 14, LLC
an Arizona limited liability company

By: CSWRH Goodyear, LLC
an Arizona limited liability company
Its: Manager

By: Communities Southwest, Inc.
an Arizona corporation
Its: Manager

Signature: Mike Kern

Printed Name: Mike Kern

Its: President

Date: 10/20/2021

Signature: Luka Vignjevic

Printed Name: Luka vignjevic

Its: CFO

Date: 10/20/2021



Seller Lot 19:
CSWR141 Goodyear 8, LLC,
an Arizona limited liability company

By: CSWRH Goodyear, LLC
an Arizona limited liability company
Its: Manager

By: Communities Southwest, Inc.
an Arizona corporation
Its: Manager

Signature: Mike Kern

Printed Name: Mike Kern

Its: President

Date: 10/20/2021

Signature: Luka Vignjevic

Printed Name: Luka Vignjevic

Its: CFO

Date: 10/20/2021

EXHIBIT "1"**Goodyear Ballpark****Due Diligence Exhibit
City of Goodyear 2021**

Note: Items that have been ~~crossed-out~~ were deemed unnecessary for this transaction. If the Buyer would like them, they are available and will be provided.

Tab	Item	Dated
1.	Wood Corporate Center ALTA Survey — Seller Provided	12-07-07
2.	Wood Corporate Campus & Ballpark Village Final PAD	5-17-07
3.	Ballpark Area Property Settlement Agreement Summary	3-19-12
4.	Color Coded Plat and Property Description	N/A
5.	Final Plat for Ballpark Village – Wood Corporate Campus and Notice of Correction recorded 01-16-15	7-18-08
6.	Goodyear Community Profile	N/A
7.	M&I Provided Phase I Environmental Site Assessment Part 1	5-01-09
8.	M&I Provided Phase I Environmental Site Assessment Part 2	N/A
9.	M&I Provided Phase I Environmental Site Assessment Part 3	N/A
10.	City of Goodyear Ordinance 07-1073 for Conditional Rezoning	5-30-07
11.	Amended and Restated Development Agreement Ballpark Village (N Parcel)	8-01-12
12.	Goodyear Ballpark & Recreational Complex City Package	N/A
13.	2011 Settlement Agreement & Release	05-2011
14.	Goodyear Ballpark — Key Economic Impact Facts 2012 & 2013	N/A
15.	2007 Land Conveyance Agreement – Recording No. 2007-0659896	05-29-07
16.	Special Warranty Deed Eagletail to City – Recording No. 2007-0720200	06-22-07
17.	Special Warranty Deed Swansea to City – Recording No. 2007-0720201	06-22-07
18.	Special Warranty Deed Parking Parcel Extensions from Eagletail to City – Recording No. 2007-1303920	12-12-07
19.	2007 Sports Facilities Use Agreement – Recording No. 2007-0644215	05-29-07
20.	FEMA FIRM Map	N/A
21.	FEMA - Letters of Map Change	10-09-13

22.	US Bankruptcy Court Motion for Approval of Settlement	03-22-12
23.	US Bankruptcy Court Order Approving Settlement	04-24-12
24.	City of Goodyear Resolution 1429 – Settlement of Claims	05-16-11
25.	Collateral Transfer Statement	05-19-11
26.	Amendment No. 1 to 2011 Settlement Agreement & Release	08-01-12
27.	ALTA Survey by Hoskin Ryan	02-19-15
28.	Infrastructure Exhibits – 077A Effluent	07-10-14
29a.	Infrastructure Exhibits – 077A Sewer	05-12-14
29b.	Infrastructure Exhibits – 077A Water	05-06-14
29c.	Infrastructure Exhibits – 077C Effluent	07-10-14
29d.	Infrastructure Exhibits – 077C Sewer	05-12-14
29e.	Infrastructure Exhibits – 077C Water	05-06-14
29f.	Infrastructure Exhibits – 87A Sewer	05-12-14
29g.	Infrastructure Exhibits – 87A Water	05-06-14
30.	2012 Settlement Agreement	03-05-12
31.	Assignment of Rights from MPK, Eagletail, & Swansea to M&I RP – Recording No. 20102-0724682	03-01-12
32.	Map of Dedication for Ballpark Village – Recording No. 2007-1301966	11-19-07
33.	Modification of Grantee Covenants by and between M&I RP and City of Goodyear – Recording No. 2012-0724685	08-01-12
34.	Notice of Termination of City Agreements by and between City of Goodyear and M&I RP – Recording No. 2012-0724693	08-01-12
35.	Notice of Termination of Obligations to Reconvey Excess Ballpark Property by and between City of Goodyear and M&I RP – Recording No. 2012-0724684	08-01-12
36.	Parking Exhibit	12-30-14
37.	City of Goodyear Resolution No. 12-1480	03-06-12
38.	Ground Lease by and between City of Goodyear, Arizona & City of Goodyear, Arizona Public Improvement Corporation	12-01-07
39.	Lease-Purchase Agreement by and between City of Goodyear, Arizona & City of Goodyear, Arizona Public Improvement Corporation	12-01-07
40.	Trustee's Deed Upon Sale – M&I RP as Grantee – Recording No. 2011-0423546	05-19-11

41.	Special Warranty Deed (Parking Parcel Extensions) – Recording No. 2007-1303920	12-10-07
42.	Correction to Special Warranty Deed (Recording No. 2007-1303920) – Recording No. 2012-0724683	08-01-12
43.	US Bankruptcy Court Order in Case No 2-08-11532-JMM – Recording No. 2008-0959190	11-03-08
44.	City of Goodyear Water & Sewer Will Serve Letter	02-25-15
45.	APS Electric Will Serve Letter	12-12-14
46.	Southwest Gas Will Serve Letter	12-12-14
47.	Cox Communications Cable & Telecommunications Will Serve Letter	12-29-14
48.	Century Link Will Serve Letter – Requested but not received	N/A
49.	Phase I Environmental Site Assessment	12-19-14
50.	Estoppel Letter from The City of Goodyear	12-29-14
51.	Notice of Assignment of Rights Related to the Goodyear Ballpark Village delivered to City of Goodyear	02-09-15
52.	Assignment of Rights Documents by and between Seller & Goodyear 53/17 and Notice of Assignment of Rights Related to the Goodyear Ballpark Village delivered to City of Goodyear	12-2014
53.	License Agreement by & between City of Goodyear and Goodyear 17, LLC	03-19-15
54.	Vendor Indemnification by & between Southwest Fireworks & Goodyear 17, LLC	03-19-15
55.	Owner's Policy of Title insurance w/Updated legal description	01-16-15
56.	Parking Clarification Letter	12-28-15
57.	Zoning Verification Letter Related to Drive-Thru on Lot 33	09-11-17
58.	Re-Zone-Signed Ordinance	05-09-17
59.	Ballpark Village & Ballpark Village-South Re-stated & Amended Final PAD (Includes Design Guidelines)	04-28-17
60.	Ballpark Village & Ballpark Village-South Supplemental Narrative	04-28-17
61.	Ballpark Village – Lots 27-30 Development Constraints Exhibit	02-2016
62.	Ballpark Village Drainage Report	10-24-07
63.	Ballpark Village Drainage Report Addendum	03-19-09
64.	HTE Drainage Report	04-16-08
65.	Lot 14 Conceptual Site Plan	11-20-17

66.	Lots 27 – 30 Conceptual Site plan	11-20-17
67.	Lot 19 – Conceptual parking and improvement plans	12.17.20