

RESOLUTION NO. 2014-38

A RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN PINNACLE DEVCO, LTD., AND THE CITY OF FLAGSTAFF RELATED TO THE DEVELOPMENT OF APPROXIMATELY 18.6 ACRES OF REAL PROPERTY GENERALLY LOCATED AT 800 E STERLING LANE.

RECITALS:

WHEREAS, Arizona Revised Statutes § 9-500.05 authorizes the City to enter into development agreements in order to facilitate the orderly and effective development of properties; and

WHEREAS, Empire Residential Construction, L.P. (the "Original Developer") was the owner of approximately 40 acres of undeveloped real property located near the intersection of Lone Tree and Zuni Roads, within the City of Flagstaff, Coconino County, Arizona (the "Original Property"); and

WHEREAS, the City of Flagstaff and the Original Developer entered into a development agreement, recorded on August 3, 2005 as Instrument Number 3335903 in the Coconino County Recorder's Office (the "Original Agreement"), pursuant to the provisions of Arizona Revised Statutes § 9-500.05 (pertaining to development agreements), in order to facilitate the proper and orderly development of the Original Property by providing for, among other things, conditions, terms, restrictions, and requirements for the permitted uses for the Original Property, the density and intensity of such uses, and other matters related to development of the Original Property; and

WHEREAS, the Original Developer, pursuant to the Original Agreement, proposed to construct 206 single-family residential townhouse units on the Original Property (the "Original Project"), which were to be constructed in two units, of which only 102 single-family residential townhouse units (all of Unit 1) were constructed; and

WHEREAS, Pinnacle DevCo, Ltd., an Arizona business corporation (the "Developer"), as the successor in interest to the Original Developer, is the owner of approximately 18.6 acres of the Original Property generally located at 800 E Sterling Lane (the "Property"), which comprises all of the land initially proposed for development as Unit 2 of the Original Project; and

WHEREAS, the Developer intends to construct 106 single-family residential townhouse units on the Property in three phases, as more particularly described and depicted on the Preliminary Plat adopted by the City Council on October 21, 2014; and

WHEREAS, the Developer and the City wish to enter into a development agreement, in the form attached to the staff summary submitted in support of this Resolution (the "Development Agreement"), to provide for the terms and conditions under which the Property will be developed and to set forth in detail certain obligations of Developer and the City; and

WHEREAS, developing the Property under the terms and conditions of the proposed Development Agreement would be consistent with the Flagstaff Regional Plan 2030 and the

Developer and the City acknowledge that the Development Agreement would operate to the benefit of both parties;

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. That the City of Flagstaff is hereby authorized to enter into the Development Agreement in the form attached to the staff summary submitted in support of this Resolution.

SECTION 2. That the Mayor of the City of Flagstaff is hereby directed to execute the Development Agreement on behalf of the City.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY