

RESOLUTION NO. 10372

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT AND OPTION AGREEMENT WITH BCY LIMITED PARTNERSHIP, FOR THE DEVELOPMENT OF HOTEL, HOSPITALITY, AND RETAIL IMPROVEMENTS WITHIN THE SPRING TRAINING FACILITIES SITE AND THE GRANTING OF OPTION RIGHTS TO ALLOW FOR THE SALE OF CERTAIN CITY-OWNED REAL PROPERTY WITHIN THE SPRING TRAINING FACILITIES SITE.

WHEREAS, the City of Mesa (“City”) and Chicago Cubs Baseball Club, LLC (“Cubs”), entered into a development agreement recorded with the Maricopa County Recorder’s Office on December 6, 2011 as document number 2011-1004059 to construct new Spring Training Facilities in Mesa; and

WHEREAS, a Facilities Use Agreement between the City and Cubs recorded with the Maricopa County Recorder’s Office on December 6, 2011 as document number 2011-1004062, the City leased to the Cubs the Spring Training Facilities with certain qualifications and limitations; and

WHEREAS, the City and Mesa Development Holdings, LLC, a Delaware limited liability company (“MDH”), entered into that certain Option Agreement recorded with the Maricopa County Recorder’s Office on December 6, 2011 as document number 2011-100406 (the “Existing Option Agreement”), in which City granted MDH rights to purchase certain real property in the Spring Training Facilities Site as is specifically described in the Existing Option Agreement; and

WHEREAS, certain areas within the Spring Training Facilities Site are intended for future development that would enhance the Spring Training Facilities, such as hotel and hospitality improvements; and

WHEREAS, BCY Limited Partnership, an Arizona limited partnership (“BCY”) desires to construct certain hospitality and retail improvements to enhance the Spring Training Facilities, and is willing to provide a certain amount of parking for the Spring Training Facilities Site; and

WHEREAS, City and BCY desire to enter into a Development Agreement and Option Agreement consistent with the material terms described in the attached Exhibit “A” for the property depicted in Exhibit “A-1”; and

WHEREAS, City and BCY intend to enter into an Agreement to Purchase Real Property and Escrow Instructions for certain property located within the Spring Training Facilities Site prior to or at the same time as entering into the Development Agreement and Option Agreement; and

WHEREAS, the property depicted in the attached Exhibit "A-1" is subject to existing option rights to MDH under the Existing Option Agreement, and the City is seeking to amend the Existing Option Rights so as to allow the City and BCY to proceed with the Agreement to Purchase Real Property and Escrow Instructions and the Development Agreement and Option Agreement as contemplated by City and BCY; and

WHEREAS, the City Council hereby determines it is appropriate to enter into a Development Agreement and Option Agreement consistent with the material terms described in the attached Exhibit "A" for the property depicted in Exhibit "A-1."

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

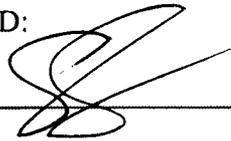
Section 1: That the City Manager, or his designee, is authorized and directed to execute a Development Agreement and Option Agreement, with terms substantially consistent with the terms described in the attached Exhibit "A" and such other terms as agreed upon by the City Manager, on behalf of the City of Mesa, together with all other documents and amendments necessary to carry out the provisions of such agreement. The City Manager may make minor modifications to the terms described in the attached Exhibit "A" so long as such modifications do not materially alter the overall agreement as described in this attachment.

Section 2: That the City Clerk is authorized and directed to attest to the signature of the City Manager, or his designee, on all such documents.

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County, Arizona this 19th day of December, 2013.

APPROVED:

Mayor



ATTEST:



City Clerk



Exhibit A
Term Sheet for Development Agreement and Option Agreement
City of Mesa, a Municipal Corporation and BCY Limited Partnership

Exhibit A-1, which is attached, depicts the various Parcels referenced in this Term Sheet.

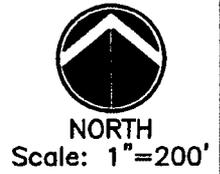
1. **Term**: the later of (1) expiration of FUA with Cubs or (2) 25 years
2. **Hospitality Minimum Improvements**: On the "Hospitality Parcel," Owner agrees to construct:
 - a. 4-story building,
 - b. not less than 175 rooms
 - c. Full service hotel with amenities consistent with a Starwood/Sheraton Hotel
 - d. Fitness center
 - e. Spa/salon
 - f. Not fewer than 1 restaurant and bar
 - g. Conference or convention center with not less than 12,000 sq. ft.
 - h. Resort style swimming pool and spa with amenities consistent with a Starwood/Sheraton Hotel
 - i. Construction Deadlines
 - i. Commencement of construction: no later than June 30, 2014
 - ii. Completion of construction: no later than December 31, 2015
3. **Parking**: Owner will provide 225 improved parking spaces at no cost to the City for use by Cubs during Spring Training games and by City during City Stadium Events.
4. **Street Improvements**: City will design and construct certain street improvements along the Paseo and Owner will reimburse City a portion of its cost.
5. **Retail Improvements**: On the "Retail Parcel," Owner agrees to construct:
 - a. A minimum of 20,000 rentable sq. ft. of retail space
 - b. Construction Deadlines
 - i. Commencement of construction: no later than December 31, 2016
 - ii. Completion of construction: no later than June 30, 2018
6. **Parking Easement**: Owner will record a parking easement to allow shared parking for patrons for the development on the Pad and the Retail Parcel.
7. **Pad Option**: If Owner has completed the Hospitality Minimum Improvements and the Retail Improvements and the Cubs Option Agreement has terminated as to the Pad Property, Owner shall have an option to purchase this Pad under the following terms:
 - a. Option Payment: \$10,000, which will be applied toward the purchase price
 - b. Purchase Price: \$9/sq. ft.

- c. **Minimum Construction Requirements:** 10,000 sq. ft. of retail or commercial improvements.

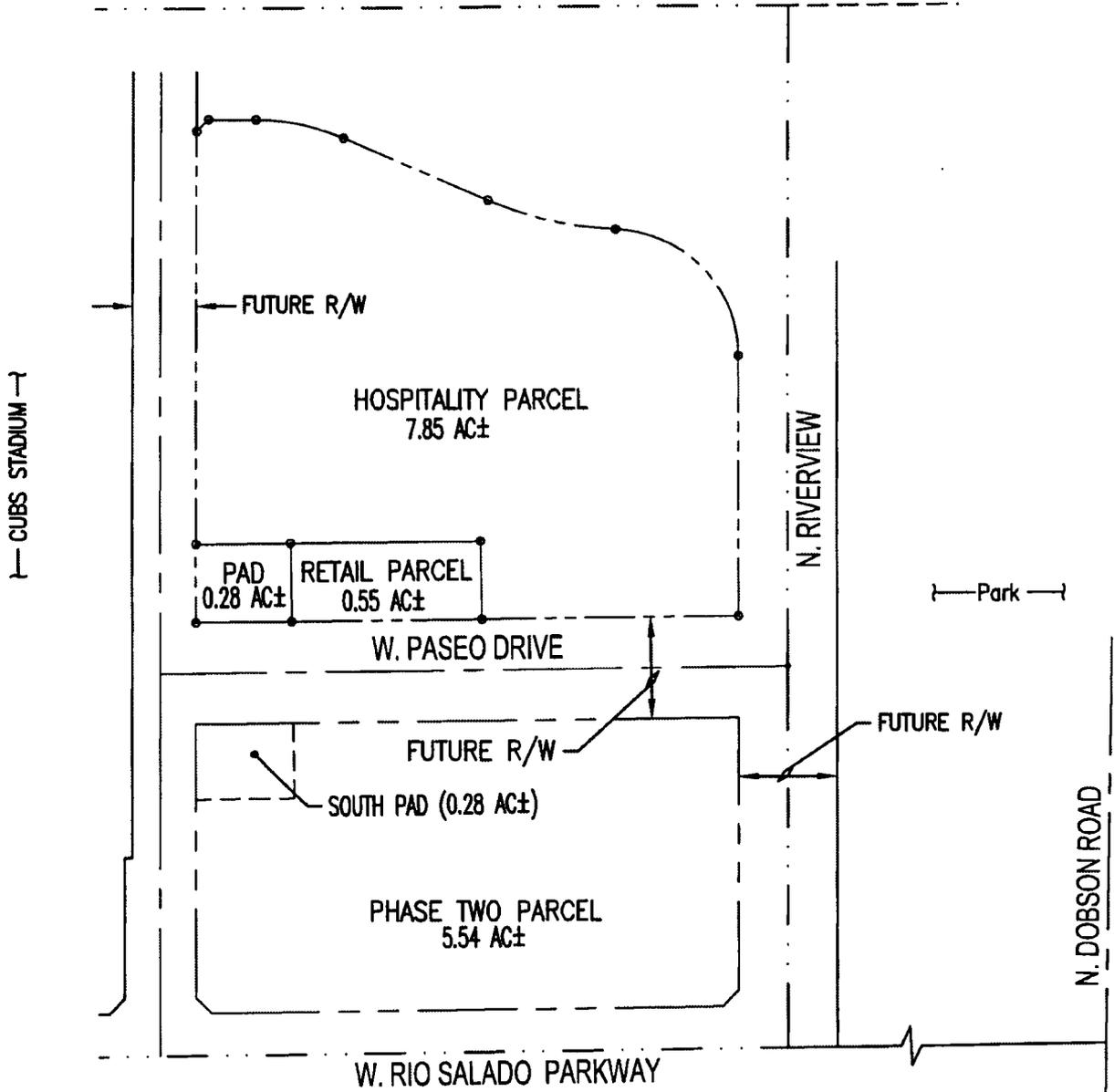
- 8. **Phase Two Parcel Option:** If Owner has completed the Hospitality Minimum Improvements and the Retail Improvements and the Cubs Option Agreement has terminated as to the Phase Two Parcel, the Owner will have an option to purchase the Phase Two Parcel under the following terms and conditions:
 - a. **Option Payment:** \$635,000, which will not be applied toward to the purchase price
 - b. **Purchase Price:** \$9/sq. ft.
 - c. **Minimum Construction Requirements if Owner acquires all of the Phase Two Parcel:**
 - i. 150 room hotel
 - ii. Retail or commercial improvements of not less than 20,000 sq. ft.
 - d. **Construction Deadlines:** If Owner fails to meet the construction deadlines, the property will revert to the City or the City will have the right of re-entry under the same terms as the Deed for the Hotel.



EXHIBIT "A-1"



DATE SAVED: 12/17/13 4:10:55A-001 (C:\0554\001\10-554-001\CHICAGO CUBS SPRING TRAINING FACILITY & RIVERVIEW SITE DEVELOPMENT\DESIGN DOCUMENTS\CAD\AREA\PLAT\LEGAL EXHIBITS\DEVELOPMENT AGREEMENT PARCEL EXHIBIT A--1.DWG



HOSPITALITY PARCEL

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS:

COMMENCING FOR REFERENCE FROM THE EAST QUARTER CORNER OF SAID SECTION 18:

THENCE S89°27'10"W, 1035.04 FEET ALONG THE EAST-WEST MIDSECTION LINE (BASIS OF BEARING);
THENCE N0°16'58"E, 554.01 FEET;
THENCE N89°43'02"W, 62.00 FEET TO THE POINT OF BEGINNING;
THENCE S89° 27' 12"W, 324.68 FEET;
THENCE N0° 32' 48"W, 99.38 FEET;
THENCE S89° 27' 12"W, 360.57 FEET;
THENCE N0° 16' 58"E, 528.19 FEET;
THENCE N45° 16' 58"E, 21.21 FEET;
THENCE S89° 43' 02"E, 60.11 FEET;
THENCE THROUGH A CURVE CONCAVE TO THE SOUTH WITH A LENGTH OF 113.85 FEET, A RADIUS OF 279.50 FEET, A DELTA OF 23.3393°, A CHORD OF 113.07' AND A CHORD BEARING OF S78° 02' 51"E;
THENCE S66° 22' 40"E, 200.07 FEET TO A POINT OF CURVE;
THENCE THROUGH A CURVE CONCAVE TO THE NORTH WITH A LENGTH OF 167.02 FEET, A RADIUS OF 452.00 FEET, A DELTA OF 21.1711°, A CHORD OF 166.07 FEET, AND A CHORD BEARING OF S76° 57' 48"E TO A POINT OF REVERSE CURVE;
THENCE THROUGH A CURVE CONCAVE TO THE SOUTHWEST WITH A LENGTH OF 247.11 FEET, A RADIUS OF 161.20 FEET, A DELTA OF 87.8317°, A CHORD OF 223.62 FEET, AND A CHORD BEARING OF S43° 37' 59"E;
THENCE S0° 16' 58"W, 332.76 FEET, BACK TO THE POINT OF BEGINNING.

CONTAINING 342,015 SQUARE FEET OR 7.85 ACRES, MORE OR LESS.

RETAIL PARCEL

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS:

COMMENCING FOR REFERENCE FROM THE EAST QUARTER CORNER OF SAID SECTION 18:

THENCE S89°27'10"W, 1035.04 FEET ALONG THE EAST-WEST MIDSECTION LINE (BASIS OF BEARING);
THENCE N0°16'58"E, 554.01 FEET;
THENCE N89°43'02"W, 62.00 FEET;
THENCE S89° 27' 12"W, 324.68 FEET TO THE POINT OF BEGINNING;
THENCE S89° 27' 12"W, 240.55 FEET;
THENCE N0° 32' 48"W, 99.38 FEET;
THENCE N89° 27' 12"E, 240.55 FEET;
THENCE S0° 32' 48"E, 99.38 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 23,906 SQUARE FEET OR 0.55 ACRES MORE OR LESS.

PAD

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS:

COMMENCING FOR REFERENCE FROM THE EAST QUARTER CORNER OF SAID SECTION 18:

THENCE S89°27'10"W, 1035.04 FEET ALONG THE EAST-WEST MIDSECTION LINE (BASIS OF BEARING);
THENCE N0°16'58"E, 554.01 FEET;
THENCE N89°43'02"W, 62.00 FEET;
THENCE S89° 27' 12"W, 565.23 FEET TO THE POINT OF BEGINNING;
THENCE S89° 27' 12"W, 121.46 FEET;
THENCE N0° 16' 58"E, 99.39 FEET;
THENCE N89° 27' 12"E, 120.02 FEET;
THENCE S0° 32' 48"E, 99.38 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 12,000 SQUARE FEET OR 0.28 ACRES, MORE OR LESS.

PHASE TWO PARCEL

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS:

COMMENCING FOR REFERENCE FROM THE EAST QUARTER CORNER OF SAID SECTION 18:

THENCE S89°27'10"W, 1035.04 FEET ALONG THE EAST-WEST MIDSECTION LINE (BASIS OF BEARING);
THENCE N0°16'58"E, 423.99 FEET;
THENCE N89°43'02"W, 62.00 FEET TO THE POINT OF BEGINNING;
THENCE S0° 16' 58"W, 349.89 FEET;
THENCE S44° 52' 04"W, 28.49 FEET;
THENCE S89° 27' 10"W, 646.14 FEET;
THENCE N45° 08' 51"W, 28.09 FEET;
THENCE N0° 11' 22"E, 253.10 FEET;
THENCE N89° 27' 12"E, 124.63 FEET;
THENCE N0° 32' 48"W, 96.77 FEET;
THENCE N89° 27' 12"E, 563.34 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 241,472 SQUARE FEET OR 5.54 ACRES, MORE OR LESS.

SOUTH PAD

A PORTION OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS:

COMMENCING FOR REFERENCE FROM THE EAST QUARTER CORNER OF SAID SECTION 18:

THENCE S89°27'10"W, 1035.04 FEET ALONG THE EAST-WEST MIDSECTION LINE (BASIS OF BEARING);

THENCE N0°16'58"E, 423.99 FEET;

THENCE N89°43'02"W, 62.00 FEET;

THENCE S89°27'12"W, 563.34 FEET TO THE POINT OF BEGINNING;

THENCE S0° 32' 48"E, 96.77 FEET;

THENCE S89° 27' 12"W, 124.63 FEET;

THENCE N0° 11' 22"E, 96.78 FEET;

THENCE N89° 27' 12"E, 123.38 FEET BACK TO THE POINT OF BEGINNING.

CONTAINING 12,000 SQUARE FEET OR 0.28 ACRES, MORE OR LESS.