

May 9, 2024

MEMO TO: Honorable Mayor and City Council

THROUGH: Charles P. Potucek, City Manager
Victoria Yarbrough, Assistant City Manager
Matt McLachlan, AICP Community Development Director

FROM: Jeff Pregler

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT
Resolution 2024-35
Termination of Development Agreements
Acceptance of Termination Agreement

REQUESTED ACTION:

The City of Sierra Vista, Lawley Holdings LLC, owners of tax parcel numbers: 105-04-122B (Lawley Hyundai), 105-04-253, 105-04-254A (Lawley Chevrolet), 105-04-252E (Lawley Mazda), 105-05-121 (Lawley Honda), 107-51-336B (Vacant), 107-78-001 (Lawley Chrysler Dodge) and Sanctuary Rev Liv Trust, owners to tax parcel 106-46-033 (Lawley Kia and Ford), are requesting termination of the following Development Agreements identified by the following Resolution numbers and dates and acceptance of a termination agreement as shown in Exhibit A:

Resolution 4388, approved on May 11, 2000 (recordation number 000617521)
Resolution 4869, approved on October 24, 2002 (recordation number 021135092)
Resolution 4884, approved on November 26, 2002 (recordation number 021240635)
Resolution 4893, approved on December 12, 2002 (recordation number 021240640)

RECOMMENDATION:

The City Manager recommends approval.
The Assistant City Manager recommends approval.
The Director of Community Development recommends approval.

APPLICANT:

Lawley Holdings LLC
2900 E. Fry Blvd.
Sierra Vista, AZ 85635

Sanctuary Revocable Living Trust
P.O. Box 1360
Silver City, NM 88062

BACKGROUND:

The properties associated with these development agreements were developed in accordance with the stipulations of Development Agreements 4388, 4869, 4884, and 4893. The stipulations and conditions have been completed and are no longer applicable to the future development. To remove any future incumbrances on the associated parcels, the City of Sierra Vista, and the owners of the parcels, have requested termination of the Development Agreements. The attached Termination Agreement, once signed, will terminate the Development Agreement. Any additional development on the properties would need to meet Development Code requirements.

Attachments:

Resolution,
Exhibit A-Termination Agreement

RESOLUTION #	ADOPTION DATE	CONDITIONS/STATUS
4338	May 11, 2000	<p>1. <u>City Code/Developer Compliance.</u> - The Developer shall develop said property in accordance with the City Code except for the special waivers contained in this agreement.</p> <p>STATUS: Complete</p> <p>2. <u>General Plan Land Use.</u> — The following agreement is in keeping with the spirit and intent of Goal 2— Land Use, Goal 6 - Public Facilities and Services (Storm Water/Surface Water Management), and Goal 12— Urban Design of Vista 2010.</p> <p>STATUS: Consistent</p> <p>3. <u>Property Dedication.</u> The Owner of the Property agrees to dedicate an area delineated on the Buena Vista Plaza Final Plat as Tract 2. The above - mentioned dedicated property shall retain its current zoning designation as Open Space (OS).</p> <p>STATUS: Complete</p> <p>4. <u>Construction and Design.</u> In return for the above property dedication to the City, the City agrees to assume all up -front costs associated with the construction of public drainage area (Tract 2) that shall include a berm/detention basin at its northeastern most point. The detention basin shall be fed by a wash traveling from the southwest corner of the Property (contiguous with Fry Boulevard) heading northeast to the southwest corner of the detention basin. The City also agrees to remove all bridges covering the above described wash.</p> <p>The Owner shall be responsible for all costs associated with project design.</p> <p>The Owner also agrees to complete paving and landscaping of Tract 1 within one year of the signing of this agreement.</p> <p>STATUS: Complete</p> <p>5. <u>Reimbursement District.</u> The Owner agrees to participate in a reimbursement district for Lots 1, 2, 3, 4, 5, 6 and 7 (and any further subdivisions of those lots). Reimbursement fees shall be assessed at the point of sale for each lot. The exact amount of those fees shall be based upon the total cost to the City for the construction of the public drainage area (Tract 2) and the square acreage of each individual lot as a percentage of the total combined acreage for Lots 1, 2, 3, 4, 5, 6, and 7.</p> <p>STATUS: Reimbursement fees have been collected from all lots within the subdivision.</p>

		<p>6. <u>Lighting.</u> The City agrees to allow the developer of the property within Tract 1 to use outdoor fixtures that result in a lighting ratio of 31 to 1. The owner agrees to adjust lighting fixtures to eliminate glare and/or light trespass into the public right-of-way should the City request such adjustment.</p> <p>STATUS: Complete. All new outdoor light fixtures that are installed on this site will be subject to the City's Outdoor Light Control standards provided under Section 151.11 of the Sierra Vista Development Code.</p>
4893	December 12, 2002	<p>1. The existing All-Tune and Lube 10-foot high freestanding sign on the Owner 1 parcel, 2800 E. Fry Boulevard (parcel #105-04-122B), shall be removed and replaced with an 18-foot high Hyundai freestanding sign. Said sign shall be placed within a landscaped area and be located outside any right-of-way and clear vision area.</p> <p>STATUS: Removed and completed.</p> <p>2. The existing 15-foot high Quick Lube sign, on a portion of Owner 2 property, 2960 E. Fry Boulevard (a portion of parcels #105-04-252A, 105-04-252D, 105-04-253, 105-04-254A, 105-04-254B, and 105-05-121, shall be permanently removed.</p> <p>STATUS: Removed</p> <p>3. The existing 15-foot Nissan sign, on a portion of Owner 2 property, 2960 E Fry Boulevard (a portion of parcels #105-04-252A, 105-04-252D, 105-04-253, 105-04-254A, 105-04-254B, and 105-05-121), at the adjacent Lawley Dealership, shall be replaced with a free-standing monument sign, which meets all City Code requirements, instead of the existing pylon sign, at the next face change.</p> <p>STATUS: Completed</p> <p>4. A portion of Owner 2 property, 3200 E. Fry Boulevard (parcel #105-05-121, Lawley Chevrolet, shall be landscaped in accordance with an approved landscape plan submitted to the City.</p> <p>STATUS: This property is now Lawley Honda and all landscape requirements have been met.</p>
4869	October 24, 2002	<p>1. The current 15' high free-standing sign on the property shall be replaced with a new 13' free-standing sign. The proposed sign will reduce the non-conformity of the existing sign.</p> <p>STATUS: Completed and subsequently removed. Therefore, this provision is no longer applicable .</p> <p>2. Said sign shall continue to be a legal non-conforming sign. However, the sign shall lose its legal non-conforming status for any of the reasons stated in Section 151.24E of the Development Code as currently set forth and as</p>

		<p>amended in the future. Once the legal, non-conformance status is lost, the sign shall be built in conformance with the existing code requirements.</p> <p>STATUS: Completed and removed.</p>
4884	November 26, 2002	<p>1. The current 23' high free-standing sign, with a copy area of 97 square feet on the property shall be replaced with a new 16.6 freestanding sign, with a 27 square foot copy area. The proposed sign will reduce the non-conformity of the existing sign.</p> <p>STATUS: Completed. The City's sign code was amended in 2018 to increase the maximum height of freestanding signs from 10 feet to 15 feet on properties fronting State Route 90, State Route 92, and Fry Boulevard, east of Coronado Drive. Moreover, the method of measurement was redefined to provide for sign height to be measured from the highest adjacent grade or the highest point of the adjacent street grade, whichever provides the greater amount of sign height. Based on this method, the existing 16.6 ft. tall free-standing sign complies with the City's sign code</p> <p>2. Said sign shall continue to be a legal non-conforming sign. However, the sign shall lose its legal non-conforming status for any of the reasons stated in Section 151.24E of the Development Code, as currently set forth in and as amended in the future. Once the legal, non-conformance status is lost, the sign shall be built in conformance with the existing code requirements.</p> <p>STATUS: Compliant. The sign presently conforms to the City's currently adopted sign regulations and therefore is no longer non-conforming.</p>

RESOLUTION 2024-035

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY, TO TERMINATE DEVELOPMENT AGREEMENTS 4388, 4869, 4884, AND 4893, RELATING TO THE DEVELOPMENT OF PARCELS 105-04-122B, 105-04-253, 105-04-254A, 105-04-252E, 105-05-121, 106-46-033, 107-51-336B, AND 107-78-001, AND ACCEPTING A TERMINATION AGREEMENT AS SHOWN IN EXHIBIT A; AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City and the Sanctuary Revocable Living Trust entered into a Development Agreement, 4388, dated on May 11, 2000 and recorded June 23, 2000 with the Cochise County Recorder's Office as Docket No. 000617521; and

WHEREAS, the City and Lawley Holdings LLC entered into a Development Agreement, 4893, dated December 12, 2002 and recorded December 19, 2002 with the Cochise County Recorder's Office as Docket No. 021240640; and

WHEREAS, the City and JD & CD LLC entered into a Development Agreement, 4884 (Lawley Holdings LLC is the successor and current owner), dated November 26, 2002 and recorded and recorded December 19, 2002 with the Cochise County Recorder's Office as Docket No. 021240635; and

WHEREAS, the City and Johnson-Shield Properties LLC entered into a Development Agreement, 4869, (Lawley Holdings LLC is the successor and current owner), dated October 24, 2002 and recorded November 1, 2002 with the Cochise County Recorder's Office as Docket No. 021135092; and

WHEREAS, Sanctuary Revocable Living Trust and Lawley Holdings LLC, known as the owners, wish to terminate the Development Agreements; and

WHEREAS, all conditions of the Agreements have been completed and are no longer applicable to the future development of the parcels identified in Exhibit A; and

WHEREAS, the City of Sierra Vista is in Agreement with the termination of the Agreement and subsequent amendments.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1

That the termination of the Development Agreements, identified in Resolutions 4388, 4869, 4884, and 4893 is of mutual benefit to both the City of Sierra Vista and the owners of the properties identified in Exhibit A.

SECTION 2

The City hereby terminates the Development Agreements identified as Resolution 4388, 4869, 4884, and 4893, and accepts the Termination Agreement from The Sanctuary Revocable Living Trust and Lawley Holdings LLC.

SECTION 3

That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 23RD DAY OF MAY 2024.

CLEA MCCAII
Mayor

APPROVED AS TO FORM:

ATTEST:

NATHAN WILLIAMS
City Attorney

JILL ADAMS
City Clerk

PREPARED BY:

Jeff Pregler, AICP
Senior Planner

EXHIBIT A

TERMINATION OF DEVELOPMENT AGREEMENTS

THIS TERMINATION OF DEVELOPMENT AGREEMENT ("Termination") is made as of _____, 2024 (the "Effective Date") by and between the **CITY OF SIERRA VISTA**, a municipal corporation organized under the laws of the State of Arizona ("City") and **THE SANCTUARY REVOCABLE LIVING TRUST**, (Owner 1) and **LAWLEY HOLDINGS LLC** (Owner 2).

WHEREAS, the City and the Sanctuary Revocable Living Trust entered into a Development Agreement, 4388, dated on May 11, 2000 and recorded June 23, 2000 with the Cochise County Recorder's Office as Docket No. 000617521; and

WHEREAS, the City and Lawley Holdings LLC entered into a Development Agreement, 4893, dated December 12, 2002 and recorded December 19, 2002 with the Cochise County Recorder's Office as Docket No. 021240640; and

WHEREAS, the City and JD & CD LLC entered into a Development Agreement, 4884 (Lawley Holdings LLC is the successor and current owner), dated November 26, 2002 and recorded and recorded December 19, 2002 with the Cochise County Recorder's Office as Docket No. 021240635; and

WHEREAS, the City and Johnson-Shield Properties LLC entered into a Development Agreement, 4869, (Lawley Holdings LLC is the successor and current owner), dated October 24, 2002 and recorded November 1, 2002 with the Cochise County Recorder's Office as Docket No. 021135092; and

WHEREAS, Owner 1 owns property with tax parcel number 106-46-033 and Owner 2 owns properties with tax parcel numbers 105-04-122B, 105-04-253, 105-04-254A, 105-04-252E, 105-05-121, 107-51-336B, and 107-78-001, located in Sierra Vista, Arizona (the "Property"); and

WHEREAS, the City and Owners 1 and 2 wish to terminate the Development Agreements.

NOW, THEREFORE, in consideration of the promises and conditions contained herein, the City and Owners 1 and 2 hereby agree as follows:

1. Effective as of the Effective Date, the City and Owners 1 and 2 hereby terminate the Development Agreements and agree that the Development Agreements are no further in force and effect, and each party hereby releases the other from any claims, obligations and liabilities arising under or in connection with the Development Agreements.
2. This Termination shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.
3. This Termination shall be governed by and construed in accordance with the laws of the State of the State of Arizona.
4. This Termination may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the City and Owners 1 and 2 have executed this Termination as of the Effective Date.

CITY:

CITY OF SIERRA VISTA, a municipal corporation organized under the laws of the State of Arizona

By: _____

Name: Clea McCaa II

Title: Mayor

STATE OF _____)

) SS.

COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____ personally known to me or properly identified to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument in his/her capacity as _____ of the City of Sierra Vista, and as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 2024.

Notary Public

My Commission Expires _____

OWNER 1:

THE SANCTUARY REVOCABLE LIVING TRUST

By: _____

Name: _____

Title: Authorized Signatory

STATE OF _____)

) SS.

COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____ personally known to me or properly identified to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument in his/her capacity as the Authorized Signatory of Sierra Vista Mall, LLC, a Delaware limited liability company, and as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 2024.

Notary Public

My Commission Expires _____

OWNER 2

LAWLEY HOLDINGS LLC

By: _____

Name: _____

Title: Authorized Signatory

STATE OF _____)

) SS.

COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____ personally known to me or properly identified to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument in his/her capacity as the Authorized Signatory of Rouse Properties TRS, Inc., a Delaware corporation, and as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and seal this _____ day of _____, 2024.

Notary Public

My Commission Expires _____





