

RESOLUTION 2020-020

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY, TO TERMINATE DEVELOPMENT AGREEMENT 4083 AND THE AGREEMENT'S SUBSEQUENT AMENDMENTS, RELATING TO THE DEVELOPMENT OF THE MALL OF SIERRA VISTA AND ACCEPTING 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 Price-Herring, L.L.C. entered into that certain Development Agreement (the "Original Development Agreement") dated as of September 24, 1998 and recorded October 5, 1998 with the Cochise County, Arizona Recorder as Document No. 9810-30139, which Development Agreement was amended by Amendment to Development Agreement dated as of October 13, 1998 and recorded February 8, 2001 with the Cochise County Arizona Recorder as Document No. 01020-3446, which Development Agreement was further amended by Amendment to Development Agreement dated as of January 14, 1999 and recorded February 8, 2001 with the Cochise County Recorder as Document No. 0102-3445, and which Development Agreement was further amended by Development Agreement entered into by and between the City and Price Development Company, Limited Partnership dated as of September 26, 2002 and recorded October 11, 2002 with the Cochise County Recorder as 0210-32119 (the Original Development Agreement, as so amended, the "Development Agreement"); and

WHEREAS, the current Owners of the Mall, known as the Mall at Sierra Vista LLC., and Rouse Properties, TRS, Inc. wish to terminate the Development Agreement and subsequent amendments to the Agreement; and

WHEREAS, all conditions of the Agreement have been completed and are no longer applicable to the future development of the Mall at Sierra Vista and all parcels and pads associated with the Mall at Sierra Vista, as identified in Exhibit A; and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 Agreement, identified as Resolution 4083 and subsequent amendments is of mutual benefit to both the City of Sierra Vista and the owners of the Mall at Sierra Vista.

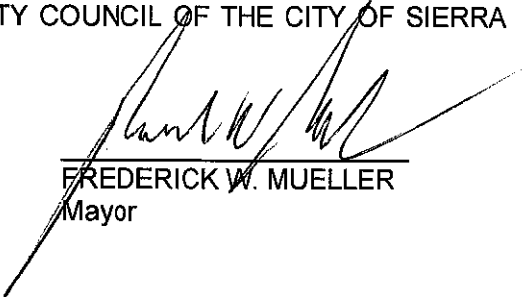
SECTION 2

The City hereby terminates the Development Agreement identified as Resolution 4083 and all subsequent amendments, identified as Resolution 4094, Resolution 4129, and Resolution 4847, respectively and accepts the Termination Agreement from Sierra Vista Mall, LLC and Rouse Properties TRS, Inc.

SECTION 3

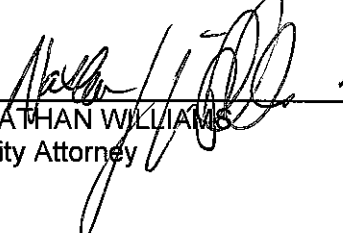
That the City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 14TH DAY OF MAY 2020.



FREDERICK W. MUELLER
Mayor

APPROVED AS TO FORM:



NATHAN WILLIAMS
City Attorney

ATTEST:

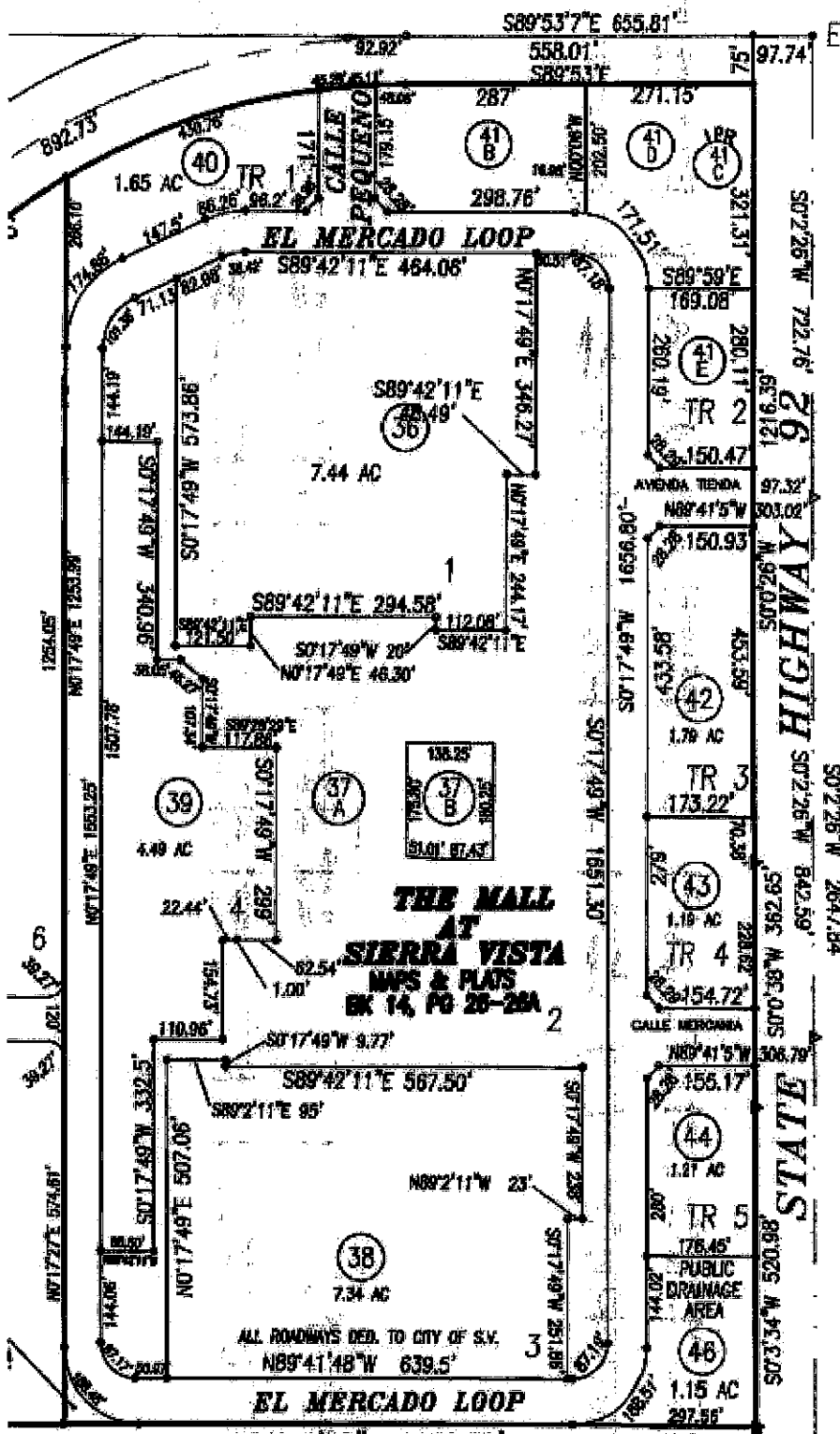


JILL ADAMS
City Clerk

PREPARED BY:

Jeff Pregler, AICP
Senior Planner

EXHIBIT A



(Re: This instrument prepared by and
after recording return to:

Douglas M. Ellis, Esq.
Neal, Gerber & Eisenberg, LLP
2 N. LaSalle Street, Suite 1700
Chicago, Illinois 60602

TERMINATION OF DEVELOPMENT AGREEMENT

THIS TERMINATION OF DEVELOPMENT AGREEMENT ("Termination") is made as of _____, 2020 (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 **SIERRA VISTA MALL, LLC**, a Delaware limited liability company ("SVM") and **ROUSE PROPERTIES TRS, INC.**, a Delaware corporation (together with SVM, "Owner").

WHEREAS, the City and Price-Herring, L.L.C. entered into that certain Development Agreement (the "Original Development Agreement") dated as of September 24, 1998 and recorded October 5, 1998 with the Cochise County, Arizona Recorder as Document No. 9810-30139, which Development Agreement was amended by Amendment to Development Agreement dated as of October 13, 1998 and recorded February 8, 2001 with the Cochise County Arizona Recorder as Document No. 01020-3446, which Development Agreement was further amended by Amendment to Development Agreement dated as of January 14, 1999 and recorded February 8, 2001 with the Cochise County Recorder as Document No. 0102-3445, and which Development Agreement was further amended by Development Agreement entered into by and between the City and Price Development Company, Limited Partnership dated as of September 26, 2002 and recorded October 11, 2002 with the Cochise County Recorder as 0210-32119 (the Original Development Agreement, as so amended, the "Development Agreement"); and

WHEREAS, Owner is the owner of certain property commonly known as the Mall at Sierra Vista, located in Sierra Vista, Arizona (the "Property") and the successor to Developer (as defined in the Development Agreement); and

WHEREAS, the City and Owner wish to terminate the Development Agreement.

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

1. Effective as of the Effective Date, the City and Owner hereby terminate the Development Agreement and agree that the Development Agreement is of no further force and effect, and each party hereby releases the other from any claims, obligations and liabilities arising under or in connection with the Development Agreement.
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 Owner 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: [Signature]

Name: Frederick W. Mueller

Title: Mayor

STATE OF Arizona

) SS.

COUNTY OF Cochise

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Frederick Mueller 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 Mayor 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 14th day of May, 2020.

[Signature]

Notary Public

My Commission Expires 02-18-23



OWNER:

SIERRA VISTA MALL, LLC,
a Delaware limited liability company

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 _____, 2020.

Notary Public

My Commission Expires _____

ROUSE PROPERTIES TRS, INC., a Delaware corporation

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 _____, 2020.

Notary Public

My Commission Expires _____