

RESOLUTION 2023-083

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE MAYOR TO EXECUTE A PRE-ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SIERRA VISTA AND THE PERRYMAN DAVID P LIVING TRUST, PROPERTY OWNER, CONCERNING PROPERTY LOCATED AT PARCEL # 106-70-111, AND AUTHORIZING DIRECTION TO THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista and David Perryman, the authorized signer for the parcel numbered 106-70-111, have reached a Pre-Annexation Agreement attached as Exhibit "A" and "B" to this Resolution and incorporated by reference, for the property whose locations and boundaries are shown on the map attached within Exhibit "A" to the Pre-Annexation Agreement; and

WHEREAS, the execution of this Pre-Annexation Agreement is in the best interest of the City of Sierra Vista.

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

SECTION 1

The Pre-Annexation Agreement between the City of Sierra Vista and the Perryman David P Living Trust, attached as Exhibit "A" and "B" to this Resolution, is authorized and approved.


SECTION 2

The Mayor is authorized and directed to execute the Pre-Annexation Agreement for and on behalf of the City of Sierra Vista and the City Clerk is authorized and directed to attest the same.

SECTION 3

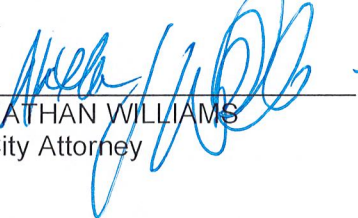
The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA THIS 9TH DAY OF NOVEMBER 2023.




Clea MCCAII
Mayor

APPROVED AS TO FORM:



NATHAN WILLIAMS
City Attorney

ATTEST:



JILL ADAMS
City Clerk

PREPARED BY:

BLAKE FISHER
Planner I

EXHIBIT A

PRE-ANNEXATION AGREEMENT BETWEEN
THE CITY OF SIERRA VISTA AND PERRYMAN DAVID P LIVING TRUST

This Pre-Annexation Agreement (hereinafter, the "Agreement") is made and entered into as of (date) April 25, 2023, by and between the City of Sierra Vista, Arizona, a municipal corporation organized under the laws of the State of Arizona (hereinafter, the "City") and PERRYMAN DAVID P LIVING TRUST (hereinafter, the "Owner").

RECITALS:

A. Owner beneficially owns certain real property, currently located in an unincorporated area of Cochise County:

APN#	SITE ADDRESS	COUNTY ZONING	COMPATIBLE CITY ZONE	LEGAL DESCRIPTION
106-70-111	689 E Fry Blvd 691 E Fry Blvd 697 E Fry Blvd 699 E Fry Blvd	GB	GC	FIRST ADDN TO FRY LOTS 24 25 26 27 28 BLK 7

B. All property is located in portions of Section 34, Township 21 South, Range 20 East, of the Gila River and Salt River Base and Meridian, and more particularly described in Exhibit A attached hereto and made part hereof (hereinafter, the "Property").

C. City and Owner desire that the Property be annexed into the corporate limits of the City and be developed as an integral part of the City and in accordance with VISTA 2030, the existing comprehensive plan for the City.

D. City and Owner have determined that entering into this Agreement will be in the best interest of the City, the public, and the Owner; will be proper and legal exercise of City power; will promote orderly development of the Property and the surrounding area; will promote the health, safety and welfare and economy of the community in general; and meets the economic development goals of the City.

E. The City and the Owner are entering into this Agreement pursuant to the provisions of A.R.S. §9-500.05 in order to facilitate the annexation and development of the Property by providing for, among other things:

1. Establishment of the terms for annexation of the Property into the City.

9. **Covenants Running with the Land.** This Agreement is made as part of a common scheme or plan for the development of the Property and a "Development Agreement" as defined in A.R.S. §9-500.05 and all rights and obligations hereunder subject to the provisions of Paragraph 3 contained herein shall be considered to run with the land and benefit and burden all owners of all or any portion of the Property, including owners who acquire title to any portion of the Property subsequent to the execution and recording of this Agreement. Nothing in this Agreement shall be construed as creating a partnership between Owner and the City.
10. **Governing Venue.** The laws of the State of Arizona shall govern this agreement and, in the event of a dispute, venue shall be in Cochise County, Arizona.
11. **Attorneys' Fees.** Should litigation be necessary to enforce any term or provision of this Contract, or to collect any damages claimed or portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs, and attorneys' fees will be paid to the prevailing party.
12. **Mediation.** If a dispute arises out of or relates to the Agreement or this Amendment, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the Superior Court of Cochise County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.
13. **Notices.** Any notice required pursuant to the provisions of this Agreement shall be in writing and be sent by certified mail to the following addresses until notice of change of address is given and shall be deemed received on the fifth business day following deposit in the United States Mail.

City Clerk
 City of Sierra Vista
 1011 N. Coronado Drive
 Sierra Vista, AZ 85635

Owner: PERRYMAN DAVID P LIVING TRUST
3157 E KEELING RD
HEREFORD, AZ 85615

14. **Non-Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable all other provisions hereof.
15. **Amendments, Modifications and Waivers.** This Agreement may not be amended, none of its terms may be modified and none of the provisions or any of its terms may be waived without the written consent of the parties hereto.
16. **Applicable Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Arizona.
17. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Section of this Agreement.

PROPERTY OWNER NAME:

By: David Perryman
Signature

David Perryman
Print Name

OWNER
Title

CITY OF SIERRA VISTA:

By: Clea McCaa
Clea McCaa, Mayor

STATE OF ARIZONA)
County of Cochise) ss

This instrument was acknowledged before me
this 9th day of November, 2023, by

[Signature]
Notary Public

My commission expires:
02-18-27



APPROVAL AS TO FORM:

By: [Signature]
NATHAN WILLIAMS, City Attorney

ATTEST:
By: [Signature]
JILL ADAMS, City Clerk

STATE OF ARIZONA)
County of Cochise) ss.

This instrument was acknowledged before me
this 25th day of April, 2023, by

[Signature]
Notary Public

My commission expires:
02-18-27



EXHIBIT B

DURABLE SPECIAL POWER OF ATTORNEY

PERRYMAN DAVID P LIVING TRUST is the owner of the following real Property:

APN#	SITE ADDRESS	COUNTY ZONING	COMPATIBLE CITY ZONE	LEGAL DESCRIPTION
106-70-111	689 E Fry Blvd 691 E Fry Blvd 697 E Fry Blvd 699 E Fry Blvd	GB	GC	FIRST ADDN TO FRY LOTS 24 25 26 27 28 BLK 7

I hereby appoint the CITY CLERK of the City of Sierra Vista, Arizona as its true and lawful Attorney for it and in its name, place, and stead, with full authority and full powers of substitution, to do and execute any or all of the following acts, deeds and things, relating to or in any way connected with the following described matter **AND NO OTHER**:

To execute all **ANNEXATION** documents, including, but not limited to, petitions, waivers, notices, grant all approvals or consents, and to do every act or perform everything necessary to authorize and achieve the **ANNEXATION** of the above described Property into the boundaries and limits of the City of Sierra Vista, County of Cochise, State of Arizona. It is the express intention and desire that said Property be annexed to the City of Sierra Vista.

(CONTINUED ON NEXT PAGE)