

RESOLUTION NO. R2016.71

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE THE SECOND AMENDMENT TO ASSUMPTION AND MODIFICATION AGREEMENT WITH TELLURIAN DEVELOPMENT COMPANY.

WHEREAS, City previously entered that certain Development Parcel Agreement (Business Park Parcel) [C2003-174C], dated as of July 2, 2009 and recorded on August 4, 2009 in the Official Records of Maricopa County Recorder, Arizona as Instrument No. 2009-0722745 (the “Development Agreement”); and

WHEREAS, City and Tellurian Development Company, an Arizona corporation (“Tellurian”), entered that certain Assumption and Modification Agreement dated April 24, 2014 and recorded at 2014-0291011 on May 5, 2014, records of Maricopa County, Arizona (“Assumption and Modification Agreement”), in which Tellurian assumed the burdens and benefits of the Development Agreement with respect to real property it then owned, which was amended pursuant to that certain First Amendment to Assumption and Modification Agreement dated April 2, 2015 [C2014-46A] and recorded at 2015-0278669 on April 23, 2015, records of Maricopa County; and

WHEREAS, City and Tellurian desire to further amend the Assumption and Modification Agreement to provide that Tellurian shall design construct and install a traffic signal (located at the intersection of East Rio Salado Road and South Rockford Drive) to Tempe specification and for Tempe to provide terms for reimbursement of the cost associated with the project not to exceed \$300,000. The reimbursement will be through a construction sales tax reimbursement related to the proposed office building, the remaining hotel, and retail development that occurs between the execution of the Second Amendment to Assumption and Modification Agreement and 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1: That the Mayor is authorized to execute the Second Amendment to Assumption and Modification Agreement and any other documents referenced therein, substantially in the forms of such documents on file with the City Clerk’s office, and to take such further actions and execute such additional documents as are necessary to implement the intent of this Resolution and the Second Amendment to Assumption and Modification Agreement.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, this _____ day of _____, 2016.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney