



MEMORANDUM

Date: October 6, 2014

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Settlement of Dispute Regarding Star Valley**

Attached is a proposed settlement letter to Mr. Alan Jones of Lennar Homes and Mr. Joseph Cesare of SVA Corporation. The letter summarizes discussions held between the parties on October 2, 2014. We are hopeful an amicable agreement can be reached to resolve the differences between Pima County, Lennar Homes, and Mr. Cesare.

Based on conceptual approval of the terms and conditions contained in the letter, the County will not schedule the abandonment plat for Blocks 4, 7 and 8 for the November 4, 2014 Board of Supervisors agenda. We are hopeful this action will not be necessary and that an appropriate settlement agreement can be reached, which would include a new set of assurance agreements for Star Valley.

CHH/anc

Attachment

c: Lesley Lukach, Deputy County Attorney
John Bernal, Deputy County Administrator for Public Works
Carmine DeBonis, Jr., Director, Development Services



COUNTY ADMINISTRATOR'S OFFICE

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C.H. HUCKELBERRY
County Administrator

October 6, 2014

Mr. Alan M. Jones
Division President, Lennar
1725 W. Greentree Drive, Suite 114
Tempe, Arizona 85284

Joseph R. Cesare, Vice President
SVA Corporation
4855 E. Broadway, Suite 103
Tucson, Arizona 85711

Re: Summary of October 2, 2014 Discussions Regarding Settlement Terms for Star Valley Infrastructure Improvements

Dear Messrs. Jones and Cesare:

This letter summarizes the points discussed on October 2, 2014 for potential settlement of the dispute regarding Star Valley roadway infrastructure improvements. Key to the discussion was the USH/SVA Star Valley, LLC acknowledgement that various construction improvements identified in the October 30, 2002 letter from McGovern, MacVittie, Lodge & Associates (MMLA) to Pima County were necessary to serve the Star Valley project. The following identifies the terms discussed for each of the improvements covered in the MMLA letter:

1. Wade Road (#5). Wade Road will be extended to Camino Verde as a two-lane roadway in years 2002-2003.

This improvement has been completed.

2. Camino Verde (#6). Camino Verde will be constructed as a two-lane roadway from Wade Road/Los Reales to the development plan boundary in years 2002-2003.

This improvement has been completed.

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3. Camino Verde (#7). Camino Verde will be constructed as a two-lane roadway from the development plan boundary north Valencia Road in the years 2005-2010. This roadway will be an at-grade roadway.

This improvement has not been completed. Pima County has completed the design of this roadway segment and has awarded a construction contract to The Ashton Co., Inc. for this work. The USH/SVA Star Valley, LLC funding obligation for these improvements can be satisfied by reimbursement to the County through an additional roadway impact fee surcharge, such as \$1,500 per residence. This surcharge would be paid at the time of building permit issuance for the construction of the remaining housing units over a defined period of time, such as a 10-year project build-out period; or other staggered surcharge amount and time period acceptable to the County. Repayment of the roadway design and construction costs will not incur interest. Copies of the plans for Camino Verde and the associated design and construction costs will be provided by Pima County, along with the Valencia Road construction plans. Camino Verde costs are the \$969,859 construction bid from Ashton), \$291,653 for design, a \$48,493 contingency for unforeseen conditions, post-design engineering in the amount of \$39,053, and \$152,753 for field engineering; for a total cost of \$1,501,811. As agreed, USH/SVA Star Valley, LLC will prepare a reimbursement proposal for review and acceptance by Pima County.

4. Camino Verde/Valencia Road Intersection (#8). This intersection will be signalized, as warranted, between years 2005 and 2010. Pima County and Star Valley will share in the funding of this improvement.

Pima County will pay for the traffic signal installation at this location.

5. Wade Road/Valencia Road Intersection (#9). This intersection will be signalized, as warranted, between years 2005 and 2010. Pima County and Star Valley will share in the funding of this improvement.

Pima County has installed a temporary traffic signal. The permanent signal will be installed with the Valencia Road improvements. USH/SVA Star Valley, LLC will reimburse Pima County \$147,676.50 for one-half of the cost of the permanent traffic signal. Pima County will establish a total project cost to be reimbursed by USH/SVA Star Valley, LLC in fulfillment of this condition. Payment may be factored into the above reimbursement proposal and stipulated in the subsequent development agreement.

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6. Los Reales Road (#12). Los Reales Road will be constructed as a two-lane roadway from Camino Verde to Viviana in the years 2002-2003.

USH/SVA Star Valley, LLC will construct this improvement at the time of development of adjacent Blocks 21, 25 and 19. The improvements will be completed prior to the release of these blocks from assurance trust or any lots within, or the provision of substitute assurances agreeable to Pima County.

7. Los Reales Road (#13). Los Reales Road will be constructed as a two-lane roadway from Viviana Road to the development plan boundary sometime after the year 2010.

This improvement is no longer needed due to the sale of blocks east of the Viviana alignment and south of the Los Reales alignment to the Pascua Yaqui Tribe.

8. Viviana Road (#14). Viviana Road will be constructed as a two-lane roadway from Los Reales Road to Valencia Road sometime after the year 2010 if planned build-out occurs. This roadway would be constructed as an at-grade roadway.

This improvement is no longer needed due to the sale of land to the Pascua Yaqui Tribe. The portion of the alignment within State land will be constructed and paid for by the future developers of the State land as necessary to serve that development. Access for Block 21 can be from Los Reales between Camino Verde and the Viviana alignment as referenced in Item 6 above. Provision for access for Block 19 will be established through Block 21. Additional access to Blocks 19 and 21 will be established from Camino Verde across State land north of Block 18. USH/SVA Star Valley, LLC will be responsible for roadway construction costs, and Pima County will pay for the major drainage channel crossing cost using available impact fees because of the additional traffic carrying capacity to serve the development provided by the implementation of this roadway. Pima County will assist with application to the Arizona State Land Department for right of way. As agreed, USH/SVA Star Valley, LLC will develop and provide to Pima County a cost estimate for right of way and roadway construction costs.

9. Camino Verde (#15). Camino Verde will be constructed as a two-lane roadway to tie into Yedra Road in the years 2002-2003. The actual connection to Yedra shall not occur until Yedra has been improved (see Item 10).

This improvement has been completed.

10. Yedra Road (#16). Yedra Road will be improved as a two-lane roadway from Camino Verde to Vahalla Road. The actual connection to Camino Verde shall not

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occur until this roadway is complete. This roadway would be constructed as an at-grade roadway. This project would be eligible for development impact fee credit. Pima County shall be responsible for right-of-way acquisition and clearance of encroachments. Pima County will exercise its power to require Utility Companies to relocate their facilities necessary for roadway construction.

This improvement has been completed to the west boundary of the Star Valley development. The remaining segment from the west project boundary to Vahalla will be constructed by USH/SVA Star Valley, LLC when determined necessary by an updated Traffic Impact Study. Construction of this segment is eligible for development impact fee credit.

11. Camino Verde (#18). Camino Verde will be constructed as a four-lane roadway from Wade Road/Los Reales to Valencia sometime after the year 2010 if planned build-out occurs. Adjacent property owners outside the boundary along Camino Verde (south of Valencia) would also be required to contribute towards this project if they are actively developing the property. This project would be eligible for development impact fee credit.

This is a future roadway improvement that is eligible for development impact fee credit.

12. Camino Verde/Los Reales Road Intersection (#20). This intersection will be signalized, as warranted, sometime after the year 2010. Pima County shall not participate in the funding of this improvement.

Signalization for this intersection will be determined through an updated Traffic Impact Study at the time of development of commercial Blocks 11, 12, 16 and 17. Pima County will not participate in the funding of this improvement.

In addition to the identified improvements and as part of settlement, USH/SVA has agreed to pay all delinquent 2013 taxes by October 15, 2014 and to pay 2014 taxes when due in November 2014.

The above represents our understanding of the general terms of settlement of the outstanding dispute between USH/SVA Star Valley, LLC and Pima County. As part of settlement, all pending litigation and claims against the County, including those filed by Mr. Joseph R. Cesare in his personal capacity and in his capacity as shareholder, director and Vice President of SVA Corporation, will be dismissed. Pima County will likewise dismiss its counterclaim filed against USH/SVA Star Valley, LLC.

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Based on our discussions, Pima County will withhold scheduling of the abandonment plat for Blocks 4, 7 and 8 on the November 4, 2014 Board of Supervisors agenda. Your written concurrence with these terms is requested by October 10, 2014 in order to begin preparation of the appropriate development agreement and ligation settlement documents.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/mjk

c: Lesley Lukach, Deputy County Attorney
John Bernal, Deputy County Administrator for Public Works
Carmin DeBonis, Jr., Director, Development Services