

## **ORDINANCE NO. 1049**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COACHELLA EXECUTING THE REVOCATION OF ORDINANCE 953 AND TERMINATING THE SHADOW VIEW DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF COACHELLA AND THE OWNERS OF LEGAL OR EQUITABLE INTERESTS IN THE REAL PROPERTY DESCRIBED IN EXHIBITS “A”, “B”, AND “C” OF SAID AGREEMENT**

WHEREAS, on July 24, 2006 the City Council of the City of Coachella held a duly noticed public hearing and approved the Shadow View Specific Plan and the related Environmental Impact Report; and,

WHEREAS, after a duly noticed public hearing the Planning Commission made a recommendation to the City Council on 19<sup>th</sup> day of July 2006 regarding the Shadow View Development Agreement (the “Development Agreement”); and,

WHEREAS, on after two duly noticed public hearings on the 9<sup>th</sup> and 23<sup>rd</sup> days of August 2006 the City Council adopted findings to justify approval of the Development Agreement and adopted Ordinance 953 approving the Development Agreement; and,

WHEREAS, the Shadow View Development Agreement was executed on March 19, 2007 and recorded with the Riverside County Recorder’s office on March 29, 2007 as Document #2007-0213011; and,

WHEREAS, on June 6, 2011 the City Council reviewed a progress report on the Shadow View Development Agreement and it was documented that the owners were out of compliance with Section 7.4 of the Agreement regarding the Economic Development Program; and,

WHEREAS, on June 23, 2012 the City Council reviewed a progress report on the Shadow View Development Agreement and it was documented that the owners were out of compliance with Section 7.4 of the Agreement regarding the Economic Development Program and out of compliance with Section 4.2 of the Agreement regarding the Schedule of Development; and,

WHEREAS, after a duly noticed public hearing with notices provided to the affected land owners, on December 12, 2012 the City Council approved Resolution 2012-51 terminating the Development Agreement and directed the City Clerk to schedule a time and place for the City Council to ordain a revocation action for Ordinance 953 and take any and all other necessary steps to terminate the Development Agreement.

NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF COACHELLA AS FOLLOWS:

Section 1. The City Council hereby finds and reaffirms, based on substantial evidence, that the owners have not complied in good faith with the terms and conditions of the Shadow View Development Agreement and said lack of compliance warrants the need to terminate the Development Agreement.

Section 2. The City Council finds that due to the severity of the lack of compliance with the terms and conditions, it is warranted that the Development Agreement be terminated for the entire property as defined in Exhibit A, Exhibit B and Exhibit C of the Development Agreement.

Section 3. The City Council hereby terminates the Shadow View Development Agreement (Riverside County Recorder's Document #2007-0213011) based on the following findings.

- 1) The owners have failed to construct a minimum of 300 single family residences on Planning Area 2 as required under Section 4.2 of the Shadow View Development Agreement. The owners were required to construct a minimum of three hundred (300) single family residences in Planning Area 2 within the first five years of the term of the Agreement, by March 19, 2012, and an additional minimum of two hundred and fifty (250) residential dwelling units in each of the subsequent five year periods of the term of the Development Agreement. No residential structures have been constructed on the property and there are no reasonable means to cure the lack of compliance with Section 4.2 of the Development Agreement in a timely manner.
- 2) The owners have failed to pay the required amounts to the City of Coachella for marketing, design and outreach of the project. Section 7.4 of the Development Agreement requires that the owners pay a total of two-hundred thousand dollars (\$200,000) to the City of Coachella as funding for the costs of the economic development program consultant work. The owners were required to pay \$50,000 on September 19, 2007 and \$50,000 on March 19, 2008, and \$100,000 on March 19, 2009. To date, only the first payment of \$50,000 was paid to the City.
- 3) The City Council finds that termination of the Shadow View Development Agreement is in the public interest in that the City is in the final stages of updating the comprehensive General Plan, including its land use and circulation elements and new policies will be introduced that warrant an examination of the approved entitlements on the property in light of the community's vision for future development of the Shadow View properties.
- 4) Termination of the Shadow View Development Agreement is categorically exempt from environmental review pursuant to Section 15321 of the California Environmental Quality Act Guidelines, which includes enforcement actions by regulatory agencies to enforce or revoke permit, entitlement, and other rules or

requirements. The termination action is an enforcement action and will not, in itself, create any physical changes to the environment.

Section 4.     Effective Date. This Ordinance shall become effective thirty (30) days after its final adoption.

Section 5.     Posting. The City Clerk shall certify to the passage and adoption of this Ordinance, and shall cause the same to be posted in at least three public places designated by resolution of the City Council, and shall cause this Ordinance and its certification, together with proof of posting, to be entered into the Book of Ordinances of this City.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of Coachella on this 13<sup>th</sup> day of February 2013 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Eduardo Garcia, Mayor

**ATTEST:**

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Beatrice Barajas, City Clerk

**APPROVED AS TO FORM:**

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Carlos Campos, City Attorney

STATE OF CALIFORNIA                    )  
COUNTY OF RIVERSIDE                ) SS  
CITY OF COACHELLA                    )

I, Beatrice Barajas, City Clerk of the City of Coachella do hereby certify that the foregoing is a true and correct copy of an ordinance, being Ordinance No. 1049 duly passed and adopted at regular meeting of the City Council of the City of Coachella, California held on the 13<sup>th</sup> day of February 2013.

By: \_\_\_\_\_  
Beatrice Barajas, City Clerk