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ORDINANCE NO. 22-1148

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF DOUGLAS, COCHISE COUNTY, ARIZONA, AUTHORIZING THE LEASE AGREEMENT AND MEMORANDUM OF AGREEMENT FOR SUN STATE TOWERS TO ESTABLISH A COMMUNICATIONS FACILITY ON A PORTION OF PARCEL # 409-13-19008 LOCATED AT 1ST STREET AND E AVENUE, DOUGLAS, ARIZONA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; ESTABLISHING SEVERABILITY OF COMPONENTS OF ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE THEREOF.

WHEREAS, Article VII, Sec. 5(12), of the City Charter provides that the acquisition, sale, lease or exchange of real property shall be by ordinance; and

WHEREAS, Sun State Towers has requested the City to grant an Easement on a portion of parcel # 409-13-19008 located on 1st Street and E Avenue; and

WHEREAS, the proposed easement will allow the City of Douglas to consummate a transaction to enter into a Lease Agreement and Memorandum of Agreement for a communications facility and Option to Sun State Towers IV, LLC, a Delaware limited liability company; and

WHEREAS, a copy of the Lease Agreement and Memorandum of Agreement, inclusive of property description, and site are attached as Exhibits "A", "B", and "C" and incorporated into this ordinance by reference; and

WHEREAS, it is in the City's best interest to enter into said Lease Agreement and Memorandum of Agreement.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Douglas, Arizona, as follows:

Section 1. The approval of the Lease Agreement and Memorandum of Agreement, a copy of which is attached as Exhibits "A", "B" and "C" and incorporated herein by reference, is found to be in the best interest of the City of Douglas.

Section 2. The City Manager and the City Clerk are hereby authorized to execute and deliver the Lease Agreement and Memorandum of Agreement and any related documents necessary to the consummation of the transactions contemplated by the Lease Agreement and Memorandum of Agreement.

Section 3. The officers of the City Council and the City of Douglas are hereby authorized and directed to fulfill all obligations under the terms of the Lease Agreement and Memorandum of Agreement.

Section 4. Severability: If any chapter, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance and this Ordinance shall continue in full force and effect after the deletion of the illegal or unconstitutional provision.

Section 5. Effective date. The provisions in this Ordinance shall be effective thirty (30) days after final approval and adoption by the Mayor and Council.

PASSED AND ADOPTED by the Mayor and Council of the City of Douglas, Arizona, this 13th day of July, 2022.

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Donald C. Huish, Mayor

Attest:

Approved as to form:

Alma Andrade, City Clerk

Denis Fitzgibbons, City Attorney

Prepared by:
Xenia Gonzalez, Interim Neighborhood Resources Director.