



City Council

Date: June 7, 2021
To: City Council
Through: Christopher J. Brady, City Manager
From: Jeff McVay, Manager of Downtown Transformation
Subject: Consider a proposed First Amendment to the Agreement to Purchase Real Property and an updated Development Agreement for the ECO Mesa development.
District 4

Purpose and Recommendation

Consider the proposed First Amendment to the Agreement to Purchase Real Property and an updated Development Agreement (PA) between the City of Mesa and EV Development, LLC. The Purchase Agreement Amendment and updated Development Agreement (DA) modify development compliance dates and provide requirements for entering into a separate Electric Distribution Facilities Design and Construction Agreement (EDFDCA). Staff recommends approval.

Background

City Council approved the current PA and DA with EV Development, LLC in August 2020. The PA and DA include milestones for purchasing the property from the City and compliance dates for permitting and construction of the project, which the developer must meet to remain in compliance with the terms of the agreements. Due to disruptions caused by the COVID-19 pandemic and the need to negotiate a separate (EDFDCA) that must be entered into prior to City completing electric design and construction and as a condition precedent to closing on the property, the developer has requested modification to the compliance dates. To date, the developer is in compliance with these milestones.

When the DA was originally approved the extent of electric infrastructure improvement that would be necessary to serve the development was unknown, and the DA was approved with a provision that the City and Developer may need to enter into a separate electric agreement. In performing the electric analysis and evaluation for the project, the scope and scale of the electric infrastructure improvements necessitated an EDFDCA, which has been included as a condition precedent to closing on the land. The EDFDCA ensures that the City's electric utility will recapture the value of the electric infrastructure investment.

Discussion

The following table summarizes the proposed modification to the PA compliance dates. The proposed amendment retains the provision that allows the City Manager to extend the new compliance dates by 45 days, a maximum of three times.

Developer Milestones	Current Compliance Date	Proposed Compliance Date
Receive Building Permits	July 14, 2021	September 1, 2021
Commence Construction	October 14, 2021	September 15, 2021
Closing Date	October 14, 2021	September 15, 2021
Complete Construction	June 15, 2023	May 15, 2023

Alternatives

Modify terms to the proposed First Amendment to the Purchase Agreement and updated Development Agreement.

Denial of the proposed Purchase Agreement amendment and updated Development Agreement.

Fiscal Impact

None