



City Council

Date: May 17, 2021
To: Mayor and Council
Through: Christopher J. Brady, City Manager
From: William J. Jabjiniak, Economic Development Director 
JD Beatty, Senior Project Manager 
Subject: Approving and authorizing the City Manager to enter into a Development Agreement and Sustainable Water Service Agreement with Redale LLC, for the development of approximately 396 acres of property generally located at the southeast corner of Elliot and Ellsworth Roads. The Agreements facilitate the phased development of a large data center that will generate economic benefits to the City of Mesa (Council District #6)

Purpose and Recommendation:

To consider the proposed Development Agreement (“DA”) and Sustainable Water Service Agreement (“SSA”) between the City of Mesa and Redale LLC (“Company”) relating to approximately 396 acres of property located at the southeast corner of Elliot Road and Ellsworth Road (the “Property”). The DA and SSA facilitates the development of the Property in a manner that will generate substantial benefits for City, including, among other things: providing for planned and orderly development of the Property consistent with the General Plan and Zoning; increasing tax revenues that will arise from or relate to the proposed Project to be constructed on the Property; and otherwise enhancing the economic welfare of the residents of City.

Staff recommends City Council approve and authorize the City Manager to sign:

1. The proposed Development Agreement,
2. The Sustainable Water Service Agreement, and
3. Other documents and agreements as necessary to carry out the provisions of these agreements.

Background:

City Staff and Company have been engaged in negotiations to facilitate the development of the Property. The Property is located within the Eastmark Planned Community District and is governed by the Eastmark Community Plan. The DA and SSA are both critical to the Company’s decision to develop (or not to develop) the Property. The development of the Property authorized under the DA is for a multi-year, large scale project that may include up to 3,000,000 square-feet for data center buildings and other related facilities (the “Project”).

Discussion:

The following provides a summary of the primary deal points established in the DA and SSA.

Development Agreement:

The term of the DA is the earlier of 20 years from the Date of First Operation or 30 years. The City may extend the term to coincide with the term of the SSA if the Company provides additional Long-Term Storage Credits (LTSCs) to meet the water needs of the Project.

The DA sets forth the parties' undertakings related to the development of the Project.

Company Undertakings:

1. Company may construct in the first phase of the Project one or more buildings on the Property with an expected cumulative total of 970,000 square feet. The Company may construct additional buildings on the Property (totaling up to three million square feet) in the future, provided Company complies with the SSA.
2. Company, at its sole cost and expense, must design, construct and dedicate all required off-site infrastructure improvements. This includes but is not limited to full half-street improvements on Elliot Road, Ellsworth Road, Warner Road and Eastmark Parkway. It also includes an additional waterline in Signal Butte Road. These improvements may be eligible for phasing, as agreed to by the City. City is not responsible for any reimbursement of these infrastructure improvement costs.
3. Company will design and construct the Project to comply with the design guidelines established in the Community Plan, applicable Development Unit Plans, as well as the City's Quality Development Design Guidelines.
4. Company must maintain sufficient storage on-site to accommodate the estimated 48-hour peak demand, and comply with all wastewater permitting and discharge requirements as applicable at the time of discharge. Company will also install water-efficient landscaping and irrigation systems to minimize water usage where possible and must xeriscape all landscaped areas.
5. Company in conjunction with the DA must enter the SSA and be approved as a "Multiple or Large Meter Customer" as described more fully below, which is a critical component of this Project relating to Water Sustainability.

City Undertakings:

1. City will provide a Customized Review Schedule for the Project and certain construction plans, applications and other required submissions.
2. City has agreed to shift Eastmark Parkway to accommodate the Project.

Sustainable Water Service Agreement:

In 2019, the City updated Title 8, Chapter 10 of the Mesa City Code to establish certain terms, conditions, limitations and other requirements regarding City water utility service, particularly as it relates to sustainability and certain large customers (the “MLM Customers”). Among the requirements of the revised Code is that MLM Customers enter into a Sustainable Service Agreement which will establish a Water Allowance for such customers and provide for the terms under which they will transfer additional water rights to City. In the case of Redale, the proposed SSA has a term of 25 years. City and Company may agree to a 5-year extension based on the ability to maintain and assign the necessary LTSCs. The SSA establishes a water allowance and certain limitations on demand at the Property and also provides for the transfer of LTSCs to City.

1. Based upon the anticipated water demand of the Project, which is expected to exceed 500KGal per day and 550 acre-feet of water on an annual basis, the Company is applying to be an MLM Customer, as required by Mesa City Code Title 8, Chapter 10, Section 8-10-9.
2. As an MLM Customer, Company will purchase and secure, at its sole cost and expense, water rights to serve the needs of the Project. These water rights will be in the form of Long Term Storage Credits (“LTSCs”).
3. Establishes a Water Allowance, which helps minimize the Project’s impact on the community’s water portfolio and system today and into the future. It also establishes flow limitations to help protect the City water utility system.
4. Company will assign an initial amount of 5,500 acre-feet of LTSCs, which will provide City with the additional water rights necessary to serve the Initial Phase of the Project. This initial transfer will cover the annual Water Allowance of 550 acre-feet per year for Phase 1. Potential future phases of the Project will increase the amount of the annual Water Allowance and associated LTSCs transferred to 1,100 acre-feet per year for Phase 2 and 1,400 acre-feet per year for Phase 3 (in each case, if constructed by Company at its option).
5. Company has demonstrated that they have the ability to acquire these LTSCs from a qualified source, and will bear any and all costs to acquire said LTSCs to facilitate the development of their Project as required by their status as an MLM Customer.
6. Water use at the Property may be expanded in certain years during active construction phases, to accommodate water needed to meet applicable dust control of other construction requirements.
7. Company and City will reconcile every 3 years the actual amount of water used by the Project in comparison to the amount of LTSCs transferred. Company must maintain a balance of three years of transferred LTSCs with City. It is hoped and anticipated that improved efficiencies or advancements in cooling technologies may reduce water demands, in which case, the City and Company will consider in good faith a reduced Water Allowance. This is not guaranteed, but both parties are interested in reducing water dependency.
8. Company is subject to the Water Shortage Management Plan, and measures taken by City, though under limited circumstances where significant reductions (over 20%) are called for, City has recognized that implementation of further measures on

Company would require a declaration of a moratorium under A.R.S. § 9-463.06.

9. City and Company will have semi-annual meetings to discuss the Project's expected utility demands, construction progress, planned outages, maintenance and other items, to ensure a collaborative relationship and close communication with one another.
10. Company will pay the appropriate water and sewer rates based on its corresponding billed usage, as per the adopted fee schedule, which may be subject to change.
11. Company is responsible for maintaining adequate on-site water storage to mitigate impacts to the City system, and for complying with all state requirements applicable to certain large users as adopted and administered by the Arizona Department of Water Resources pursuant to the Groundwater Code.

Alternatives:

If Council does not approve the DA and SSA as drafted and recommended, they may choose one of the alternatives listed below:

Not Approve the DA and SSA: The Council could choose not to approve the DA and SSA, in which case, the Project and development of the Property will most likely not move forward as these documents are critical to the Company's decision to locate in Mesa.

Direct Staff to Modify the DA, SSA, or Both: Council could direct staff to modify the agreements. This would require additional negotiations and discussions with the Company, which could jeopardize the Project's anticipated timelines, potentially causing the Project not to move forward.

Take No Action: The Council could choose to take no action or table the item until a future date. The timing of this Project is sensitive and tabling the item could cause a negative impact to the progress of the Project, but the exact impact is not known.

Fiscal Impact:

The City expects to receive substantial direct and indirect economic impact benefits including increased personal property tax revenue, real property tax revenue, electricity sales tax revenue, construction sales tax revenue, development-related fee revenue and utility revenue, associated with the Project.

Coordinated With:

The Office of Economic Development has worked closely with the City Attorney's Office, Water Resources, Development Services, Engineering and Transportation on this project.