

RESOLUTION NO. 12274

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THS DUAL FLAG AT GP, LLC RELATED TO THE DEVELOPMENT OF A PORTION OF THE PROJECT COMMONLY KNOWN AS “GALLERY PARK” FOR PROPERTY GENERALLY LOCATED NEAR S. POWER ROAD BETWEEN E. RAY ROAD AND STATE ROUTE 202 (APN 304-30-975)

WHEREAS, THS DUAL FLAG AT GP, LLC (“Developer”) desires to construct certain improvements related to 3.6 +/- acres of vacant land generally located along S. Power Road between E. Ray Road and State Route 202 (APN 304-30-975), as legally described and depicted in **Exhibit A** (the “Property”).

WHEREAS, Developer intends to develop the Property as a portion of the project known as “Gallery Park”. The development on the Property will consist of a full-service, dual flag, 174 room hotel comprised of a Tempo by Hilton and a Homewood Suites by Hilton (collectively, the “Hotel”) and featuring an independently branded and operated full-service 6,000 square foot restaurant (“Restaurant”). Collectively, hereinafter, the Hotel, Restaurant, and related improvements may be referred to as the “Project”.

WHEREAS, the original development for the Property was to be a dual flag Hilton Garden Inn and a Homewood Suites with accompanying eating accommodations designed primarily to serve Hilton Garden Inn and Homewood Suites guests. The new inclusion of the Tempo by Hilton brand and the accompanying Restaurant would introduce a higher caliber of accommodations and a full-service restaurant designed to serve the general public.

WHEREAS, as there are increased costs to Developer for the inclusion of the higher-caliber Tempo by Hilton brand and Restaurant, Developer requested reimbursement for the costs of construction for public infrastructure improvements for the Project, specifically certain water and sewer lines that will ultimately be dedicated to and controlled by the City (“Public Infrastructure”).

WHEREAS, it is in the best interest of the City to encourage and promote development because development, in turn, stimulates economic activity throughout the City which improves and enhances the economic welfare of the City’s citizens, generates taxes, and provides other benefits for the City.

WHEREAS, the City reasonably believes that the development of the Project will generate increased transaction privilege and transient lodging tax revenues for the City as compared to the original proposed development and will serve an area need for a full-service, sit-down restaurant and hotel accommodations at the caliber of Tempo by Hilton and the Restaurant.

WHEREAS, City and Developer desire to enter into a development agreement for the primary purpose of setting forth terms and conditions for the reimbursement to Developer for the Public Infrastructure from the non-dedicated portion of the taxes collected by the City related to the construction of the Project for specified taxable activities under Section 5-10-415 of the Mesa Tax Code, commonly referred to as “construction sales tax” (“Development Agreement”).

WHEREAS, Arizona Revised Statute § 9-500.05 authorizes the City to enter into a development agreement with any person or entity having an interest in real property in Mesa so long as the development agreement is consistent with the City’s general plan or specific plan applicable to the property on the date the development agreement is executed.

WHEREAS, the prohibition for providing tax incentives to business entities in A.R.S. § 42-6010 does not apply to “[i]ncentives consisting of reimbursement for public infrastructure dedicated to and accepted and controlled upon completion of the project by the city or town” and the reimbursement set forth in the Development Agreement falls within this exclusion.

WHEREAS, City Council hereby determines it is appropriate to enter into a Development Agreement as contemplated herein.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That the terms of the Development Agreement are approved, and the City Manager, or his designee, is authorized and directed to enter into the Development Agreement on behalf of the City of Mesa, together with all other documents necessary to carry out the provisions of the Development Agreement.

Section 2: That the City Manager, or his designee, is authorized to make any modifications and amendments to the terms set forth in the Development Agreement, so long as such modifications do not materially alter the overall structure of the agreement as it was presented to the City Council.

Section 3: That the City Clerk is authorized and directed to attest to the signature of the City Manager, or his designee, on all documents set forth in Section 1 and Section 2.

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County, Arizona this 7th day of October, 2024.

APPROVED:

John Giles, Mayor

ATTEST:

Holly Moseley, City Clerk

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF MARICOPA, STATE OF ARIZONA, AND IS DESCRIBED AS FOLLOWS:

PARCEL NO. 1:

LOT 5, OF GALLERY PARK REPLAT 3, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 1768 OF MAPS, PAGE 29.

EXCEPT ALL OIL, GAS, OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS MINERALS, FOSSILS FERTILIZERS OF EVERY NAME AND DESCRIPTION, TOGETHER WITH ALL URANIUM, THORIUM OR ANY OTHER MATERIAL WHICH IS OR MAY BE DETERMINED BY THE LAWS OF THE UNITED STATES, OR OF THIS STATE, OR DECISIONS OF COURT, TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS WHETHER OR NOT OF COMMERCIAL VALUE, AS RESERVED IN THE PATENT FORM THE STATE OF ARIZONA.

PARCEL NO. 2:

EASEMENTS AS SET FORTH IN COMMON OPERATION AND RECIPROCAL EASEMENT AGREEMENT FOR GALLERY PARK MESA, ARIZONA RECORDED IN DOCUMENT NO. 2019-0971747 AND THEREAFTER SUPPLEMENT NO. 1 RECORDED IN DOCUMENT NO. 2019-0978029; 2ND AMENDED AND RESTATED SUPPLEMENT NO. 2 RECORDED IN DOCUMENT NO. 2022-0400697; SUPPLEMENT NO. 3 RECORDED IN DOCUMENT NO. 2022-0109417; SUPPLEMENT NO. 4 RECORDED IN DOCUMENT NO. 2022-0304153; AND SUPPLEMENT NO. 5 RECORDED IN DOCUMENT NO. 2023-0432471; SUPPLEMENT NO. 6 RECORDED IN DOCUMENT NO. 2023-0595300 AND SUPPLEMENT NO. 7 RECORDED IN DOCUMENT NO. 2024-0065991.

