



City Council Report

Date: December 8, 2022
To: City Council
Through: Natalie Lewis, Deputy City Manager
From: Nana Appiah, PhD, AICP, Development Services Director
Beth Hughes-Ornelas, Deputy Development Services Director
Kellie Rorex, Senior Planner
Subject: Addendum to the Amended and Restated Community Maintenance Agreement between the City of Mesa and the Eastmark Community Alliance, Inc. for Phase 4 of the Great Park (Council District 6)

Purpose and Recommendation

The purpose of this report is to recommend that the City Council approve a resolution authorizing the City Manager to enter into an Addendum to the Amended and Restated Community Maintenance Agreement (the “Maintenance Agreement”) between the City of Mesa and the Eastmark Community Alliance, Inc (currently referred to as Eastmark) for Phase 4 of the Great Park within the community.

Background

In 2008, the City Council approved the Planned Community District Zoning for the DMB portion of the former GM Proving Grounds, now known as Eastmark. The approval of the zoning included a Community Plan (CP), which divided the property into nine Development Units (DU’s). In addition to the entitlements provided through the CP, the Eastmark development is governed by a Pre-Annexation Development Agreement (the “PADA”). Originally approved by Council in 2008, with subsequent amendments approved in 2011, 2013, 2016, and 2018. The PADA allows DMB, or its assigns, to design and install specialty features and materials. These specialty features and materials include poles for traffic control and street name signs, street and sidewalk lighting, street signage, paving materials, and enhanced landscaping. With the design and installation of specialty features and materials, the PADA required the City and DMB/Brookfield to enter into a maintenance agreement to clearly show the entity responsible for maintenance of the special features within sections of the Great Park

The Maintenance Agreement for the Community was approved by Council on June 25, 2012 and amended on June 16, 2012 and November 18, 2019. This Maintenance Agreement addresses the costs, processes, and responsibilities for maintenance of specialty items and materials, landscaping and Great Park improvements.

Discussion

The requested Addendum to the Amended and Restated Community Maintenance Agreement (Exhibit 1- Addendum) carries forward the responsibilities covered in the original and amended Agreements, with the following modifications:

1. This Addendum shall apply to the portion of the Great Park legally described as Parcels DU 3/4-19, DU 3/4-20, DU 3/4-21, and DU 3/4-22, according to Final Plat for Eastmark DU 3/4 North Phase 2 and 3, recorded in Book 1462 of Maps, Page 42, official records of Maricopa County, Arizona ("Phase 4") (see Presentation).
2. Phase 4 of the Great Park does not contain Specialty Features and Materials. Phase 4 shall require only Standard Park Maintenance. The City of Mesa shall maintain Phase 4 at its sole cost and expense and DMB Mesa Proving Grounds and the Eastmark Community Alliance shall have no obligation to maintain or pay for the maintenance of Phase 4, except as set forth in Section 3 and 4 below.
3. The City and the Community Alliance acknowledge and agree that the pump house and its associated equipment, including electrical exterior to the pump house, located within Phase 4 is subject to potential damage in a flood event and any damage to the pump shall be the full responsibility of the Community Alliance. The Community Alliance shall reimburse City the full cost and expense to repair the pump within thirty (30) days after written request by City.
4. The City and the Community Alliance acknowledge and agree that any granite banks located within Phase 4 is subject to potential damage if a 100-year storm event or larger occurs. The Community Alliance shall reimburse City the full cost and expense to repair the granite banks within thirty (30) days after written request by City.
5. Notwithstanding anything to the contrary in this Addendum, City shall not be required to undertake any maintenance of Phase 4 until (a) Phase 4 has been improved with the park improvements set forth in the applicable plans approved by City, and (b) City has inspected and accepted such improvements for City maintenance, in accordance with ordinary City processes.

Alternatives

The following alternatives are presented for consideration:

- 1) Take no action which would have the effect of not assigning maintenance responsibility to either the City of Mesa or the Eastmark Community Alliance, Inc for Phase 4 of the Great Park.