

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A GOVERNMENT PROPERTY IMPROVEMENT LEASE WITH EV DEVELOPMENT, LLC, TO LEASE CITY OWNED PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF PEPPER PLACE AND ROBSON.

WHEREAS, on August 31, 2020, in Resolution No. 11553, the City Council approved documents for and made findings in relationship to the development commonly referred to as ECO Mesa; and all the findings, approvals and determinations in Resolution 11553 are hereby incorporated herein as if set forth fully in this Resolution; and

WHEREAS, City owns (and is in escrow to sell) approximately 38,944 square feet of real property generally located at the southeast corner of Pepper Place and Robson (“Property”) within the City limits of the City of Mesa (“City”), which is legally described in the attached Exhibit A. The Property has been (and continues during escrow to be) used by City for surface parking for City permittees, downtown business and public parking; and

WHEREAS, EV Development, LLC, a Delaware limited liability company (“Developer”), has signed a purchase agreement and is in escrow to purchase the Property in order to construct a mixed-use commercial redevelopment project (“Project”) consisting of a seven-story building with ground floor commercial, market-rate residential units and a parking garage. Within the parking garage, Developer will provide City not fewer than seventy-six (76) parking spaces, designated solely and exclusively for use by City, to replace the existing surface parking on the Property, as more fully described in the Development Agreement; and

WHEREAS, upon completion of the Project, it is the desire and intention of the Developer to transfer the Property and all the improvements constructed thereon to City, and thereafter to lease the same from City pursuant to A.R.S. §§42-6201 *et seq.* (the “Lease”); and

WHEREAS, in Resolution 11553, the City Council authorized the City Manager to sell the City-owned Property to Developer, to enter into a Development Agreement with Developer for the construction of the Project and to enter into a Parking Easement for the continued use of a portion of the Property for City parking (all the foregoing, collectively, the “Project Documents”); and

WHEREAS, at the time the City Council approved the resolution authoring the City Manager to enter into the Project Documents, City and Developer had negotiated the material terms of the Lease but had not provided the required statutory notification; and

WHEREAS, City agreed to bring forth the Lease for City Council consideration after the statutory notification requirements were satisfied and prior to or at the closing of the sale of the Property; and

WHEREAS, the governing bodies of Mesa Community College, Mesa Public Schools, and the East Valley Institute of Technology (collectively, the “School Districts”) and Maricopa County have been notified and received all documentation required by A.R.S. §§42-6201 *et seq.*; and

WHEREAS, the City Council hereby determines, as required by A.R.S. §42-6209(C)(2), that, within the term of the Lease, the economic and fiscal benefit to the State of Arizona, Maricopa County, and City will exceed the benefits received by the prime lessee as a result of the Lease on the basis of an estimate of those benefits prepared by an independent third party in a manner and method acceptable to the City Council, and that City has provided that analysis to Maricopa County and the School Districts; and

WHEREAS, the City Council further finds that the Property and the improvements thereon are located in the Town Center redevelopment area within the City’s single Central Business District, and the improvements will result in an increase in property value of at least one hundred percent; and, thus, subject to compliance with, and limitations of, A.R.S. §§42-6201 *et seq.*, the Development Agreement and the Lease, the Property and improvements will be eligible for the tax abatement under A.R.S. § 42-6209; and

WHEREAS, in compliance with A.R.S. § 42-6209(G), the term of the Lease shall not exceed eight years, and upon the expiration (or earlier termination) of the Lease, City will reconvey the Property and improvements back to Developer; and

WHEREAS, the City Council hereby determines and finds that the Project will assist in the creation of jobs and will otherwise improve and enhance the economic welfare of the inhabitants of the City of Mesa in accordance with A.R.S. § 9-500.11; and

WHEREAS, the City Council hereby determines it is appropriate to enter into the Lease and other agreements and documents as contemplated therein.

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

Section 1: The City Council approves the Lease and authorizes the other agreements, documents, and amendments as contemplated therein, and authorizes the execution of future documents and agreements as necessary to carry out the provisions of these agreements (all the foregoing, collectively, the “Lease Documents”). The City Manager, or his designee, is authorized to execute the Lease Documents. Additionally, the City Manager is authorized to approve the conveyance and reconveyance of the Property and improvements consistent with the Lease Documents and the Project Documents. Provided further, the City Manager may agree to and enter into, and make, amendments and modifications to the Lease Documents as necessary to carry out the intent of the Lease Documents and do not materially alter the terms of the Lease Documents.

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

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County, Arizona
this 22nd day of October, 2020.

APPROVED:

Mayor

ATTEST:

City Clerk

EXHIBIT A
LEGAL DESCRIPTION

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

PARCEL NO. 1: (APN NO. 138-35-010A)

Lot 11, of PEPPER DRIVE TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 8 of Maps, page 22;

EXCEPT THE West 14.16 feet thereof.

(NOTE: A plat of Mesa, recorded in Book 23 of Maps, page 18, records of Maricopa County, Arizona, purports to show the within property as Lot 11, Tract A, MESA.)

PARCEL NO. 2: (APN NO. 138-35-011)

Lot 12, of PEPPER DRIVE TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 8 of Maps, page 22.

(NOTE: A plat of Mesa recorded in Book 23 of Maps, Page 18, records of Maricopa County, Arizona, purports to show the within property as Lot 12, Tract A, MESA.)

PARCEL NO. 3: (138-35-012)

Lots 13 and 14, of PEPPER DRIVE TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 8 of Maps, page 22.

PARCEL NO. 4: (138-35-053)

The West 53 feet of the East 321.25 feet of the South 135 feet of Lot 8, Block 5, of MESA CITY, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 3 of Maps, page 11.

(NOTE: A plat of Mesa recorded in Book 23 of Maps, Page 18 purports to show said premises as a portion of Lot 8, Blok 5, Tract B, Mesa.)

PARCEL NO. 5: (138-35-054)

The West 10.15 feet of the South 135 feet of Lot 8, of PEPPER DRIVE TRACT, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 8 of Maps, page 22.

(NOTE: A plat of Mesa recorded in Book 23 of Maps, Page 18 purports to show said premises as a portion of Lot 8, of Tract B, Block 5, Mesa.)

EXHIBIT A
(Continued)

PARCEL NO. 6: (138-35-056)

That part of Lot 8, Block 5, of MESA CITY, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, recorded in Book 3 of Maps, page 11, more particularly described as follows:

BEGINNING at a point in the East line of said Lot 8, Block 5, at the intersection of North McDonald Street and Pepper Drive being 135 feet Northerly from the Southeast corner of said Lot 8;

RUNNING THENCE Westerly along the South line of Pepper Drive 218 ¼ feet to the TRUE POINT OF BEGINNING;

THENCE running Southerly 135 feet parallel to the East line of said Lot 8 to an alley;

THENCE running Westerly along the North line of said alley 50 feet;

THENCE running Northerly 135 feet parallel to the West line of the said Lot 8 to the South line of Pepper Drive;

THENCE Easterly 50 feet along said South line of Pepper Drive to the TRUE POINT OF BEGINNING.

APN: 138-35-011, 13835-010A, 138-35-053, 138-35-054, 138-35-012, 138-35-056