

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT AND GOVERNMENT PROPERTY IMPROVEMENTS LEASE AGREEMENT, TO FACILITATE THE DEVELOPMENT AND CONSTRUCTION OF A MIXED-USE COMMERCIAL AND RESIDENTIAL PROJECT AND OTHER PUBLIC IMPROVEMENTS ON THE PROPERTY GENERALLY LOCATED IN DOWNTOWN MESA AT THE SOUTHEAST CORNER OF EAST MAIN STREET AND SOUTH SIRRINE, AND A PERPETUAL EASEMENT AGREEMENT TO ALLOW FOR THE PUBLIC'S USE OF THE THOROUGHFARE AND PLAZA IN THE PROJECT.

WHEREAS, Opus Development, LLC ("Developer") has fee ownership of approximately 9.67 acres of certain real property consisting of multiple parcels located within the square mile south of East Main Street, north of East 1st Avenue, east of South SIRRINE, and west of South Hibbert within the city limits of the City of Mesa ("City") which is legally described in the attached Exhibit A ("Property").

WHEREAS, Developer intends to facilitate the development of the Property into a high-quality, mixed-use development consisting of four multi-story buildings with ground floor commercial space, market-rate residential units, a thoroughfare and plaza area, and other public improvements (the "Project").

WHEREAS, the Property is located in both (a) the planning area of the City's Central Main Plan, adopted by the City Council in January 2012, and (b) the Town Center redevelopment area within the City's single Central Business District, adopted by the City Council in 1999, that has a designation of slum and blight that was renewed by City Council Resolution No. 11471 on April 6, 2020.

WHEREAS, the City's Central Business District, including the Town Center redevelopment area, has numerous vacant, undeveloped and blighted properties and at least two blight factors exist on each parcel within the Property (as determined by the blight assessment study conducted and presented to the City Council at the time of the renewal of the City's Central Business District): deterioration of site or other improvements, and the existence of conditions that endanger life or property by fire and other causes.

WHEREAS, despite efforts of owner(s) to develop the site, the Property has remained unused since 2014 and has become an expansive, vacant, and deteriorating lot in downtown Mesa. The abandoned buildings on site were demolished in 2017 to address problems with individuals squatting in the buildings, as well as issues with drug use and other crimes taking place on the Property.

WHEREAS, although other Arizona cities are experiencing growth and redevelopment in their downtown areas, the City, despite its revitalization efforts to reduce the number of vacant,

underutilized parcels in downtown Mesa, has found it challenging to redevelop property within the City's Town Center redevelopment area.

WHEREAS, Arizona Revised Statutes ("A.R.S.") § 9-500.05 authorizes the City to enter into a development agreement with any person or entity having an interest in real property in the City of Mesa providing for the development of such property and certain development rights thereon.

WHEREAS, the City Council finds it is in the best interest of the City and the City's vision for the redevelopment and revitalization of its Town Center redevelopment area for the Project to be constructed on the Property and for the City to enter into a Development Agreement for the Project ("Development Agreement"), the terms of which would include the construction of certain public improvements that will be dedicated to the City, with certain dedicated right of way improvements to be maintained perpetually by the Property owner, as well as the construction of thoroughfare and plaza areas totaling approximately 83,000 square feet on the Property that will collectively consist of two (2) thoroughfares through the Project with motor vehicle access, restricted public parking, pedestrian pathways, a bicycle lane, art installations, raised landscape planters, lighting, and landscaping ("Thoroughfare & Plaza").

WHEREAS, upon completion of the Project, it is the desire and intention of Developer and the City that the owner of the Property transfers the Property and all the improvements constructed thereon to the City, and thereafter to lease the same from the City as a Government Property Improvements Lease pursuant to A.R.S. §§ 42-6201 *et seq.* (the "Lease") on the terms and conditions as set forth in the Lease.

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 were notified and received all documentation required by A.R.S. §§ 42-6201 *et seq.*

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 the 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 the City has provided that analysis to Maricopa County and the School Districts.

WHEREAS, the City Council further finds that the Property is located in the Town Center redevelopment area within the City's single Central Business District, and the improvements that will be constructed on the Property for the Project will result in an increase in property value of at least one hundred percent; therefore, 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.

WHEREAS, in compliance with A.R.S. § 42-6209(G), the term of the Lease would begin within ten years after approval of the Development Agreement and will not exceed eight years,

and upon the expiration (or earlier termination) of the Lease, the City will reconvey the Property and improvements back to the owner.

WHEREAS, as a condition precedent to the City entering into the Lease and as an element of the consideration for the Development Agreement, the owner of the Property will give to City, at no cost to City, a perpetual easement over the Thoroughfare & Plaza in the form attached to the Development Agreement (“Perpetual Easement”), that will ensure the public benefits from the use of the space by providing restricted public parking, pedestrian pathways and gathering space in downtown Mesa.

WHEREAS, the City Council finds that the Project will enhance the economic welfare of the inhabitants of the City of Mesa by, but not limited to, (i) providing for planned and orderly development of the Property consistent with the City’s Mesa 2040 General Plan, Zoning Ordinance and Central Main Plan; (ii) increasing tax revenues to City arising from or relating to the improvements to be constructed on the Property; (iii) increasing utility revenues to City; (iv) creating new jobs and otherwise enhancing the economic welfare of the residents of City; (v) providing the Thoroughfare & Plaza for use by the public as outlined in the Perpetual Easement; (vi) providing a high-quality, new multi-residential area in the City’s downtown; (vii) providing a dynamic, new commercial development in the City’s downtown to benefit City residents; (viii) reducing the blight on the Property; (ix) the collection of permit fees and transaction privilege tax in the construction of the Project; and (x) otherwise advancing the redevelopment goals of the City.

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 (Version 2) entitled “Expenditures for economic development; requirements; definitions”.

WHEREAS, the City Council hereby determines it is appropriate to enter into the Development Agreement, the Lease, the Perpetual Easement, and other agreements and amendments as contemplated in those documents.

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 Development Agreement, Lease, and Perpetual Easement for the development and construction of the Project, authorizes the other agreements and amendments as contemplated in the Development Agreement, Lease, and Perpetual Easement, and authorizes the future actions and execution of documents and agreements necessary to carry out the provisions of all these agreements (all the foregoing, collectively, the “Project Documents”).

Section 2: The City Manager, or his designee, is authorized to execute the Project Documents and may agree to, and enter into, amendments and modifications to the Project Documents as necessary to carry out the intent of the Project Documents or that are necessary to facilitate the development of the Project, and that do not materially alter the terms of the Project Documents.

Section 3: 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 1st day of March, 2021.

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:

LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, BLOCK 9, MESA CITY, ACCORDING TO BOOK 3 OF MAPS, PAGE 11 AND IN BOOK 23 OF MAPS, PAGE 18, RECORDS OF MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PART OF LOT 2, BLOCK 9, MESA CITY, ACCORDING TO BOOK 3 OF MAPS, PAGE 11, RECORDS OF MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 2;

THENCE EAST 140 FEET;

THENCE NORTH 115 FEET;

THENCE WEST 140 FEET;

THENCE SOUTH 115 FEET TO THE POINT OF BEGINNING.