

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A FIRST AMENDMENT TO THE AGREEMENT TO PURCHASE REAL PROPERTY AND ESCROW INSTRUCTIONS AND A REVISED DEVELOPMENT AGREEMENT WITH EV DEVELOPMENT, LLC, FOR 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, as described in Resolution 11553, City owns (and now 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”). The Property has been (and continues during escrow to be) used by City of Mesa (“City”) for surface parking for City permittees, downtown businesses, and public parking; and

WHEREAS, in Resolution 11553, the City Council authorized the City Manager to sell the City-owned Property pursuant to the “Sale and Purchase Agreement,” and to enter into a “Development Agreement” (as those terms are defined and described in Resolution 11553) and other documents to facilitate the intent of the parties and the development of the Project; and

WHEREAS, EV Development, LLC, a Delaware limited liability company (“Developer”), has signed the Sale and Purchase Agreement and is in escrow to purchase the Property in order to construct a mixed-use commercial redevelopment project (“Project”) 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 the Lease and related documents were approved on October 22, 2020, in Resolution 11586; and

WHEREAS, the parties desire, and City Council is willing, to make certain amendments to the Sales and Purchase Agreement in the First Amendment to the Agreement to Purchase Real Property and Escrow Instructions (the “First Amendment”) including modifying the Closing Date and to include requirements for the parties to enter into an Electric Distribution Facilities Design and Construction Agreement (the “Electric Service Agreement”); and to amend the Sale and Purchase Agreement and Development Agreement by replacing Exhibit B to the Sale and Purchase Agreement (which is the Development Agreement) with a new, modified Development Agreement that, *inter alia*, modifies the compliance dates and requirements in Sections 4.11(b) through (d), Section 5.3, and Exhibit F of the Development Agreement; and the First Amendment, Electric

Service Agreement, and modified Development Agreement are collectively the “Amended Project Documents.”

WHEREAS, the City Council hereby determines it is appropriate to enter into the Amended Project Documents 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, and the City Manager, or his designee, is authorized to execute, the Amended Project Documents and 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, including, but not limited to, the deed conveying the Property. Additionally, the City Manager may agree to and enter into, and make, amendments and modifications to the Amended Project Documents as necessary to carry out the intent of the Amended Project Documents and that do not materially alter the terms of the Amended Project 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 7th day of June, 2021.

APPROVED:

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Mayor

ATTEST:

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City Clerk