

RESOLUTION NO. 10360

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE MESA PROVING GROUNDS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT WITH DMB MESA PROVING GROUNDS LLC, TO RESOLVE CITY OBLIGATIONS RELATED TO IMPACT FEE CREDITS, EXTEND PERFORMANCE DATES IN THE DEVELOPMENT AGREEMENT FOR ACCELERATED INFRASTRUCTURE PROJECTS, AND OTHER MINOR MODIFICATIONS.

WHEREAS, the City of Mesa and DMB Mesa Proving Grounds LLC, entered into a development agreement in November 2008 detailing various promises by both parties relating to the development of approximately 3200 acres located south of Elliot Road and east of Ellsworth Road (the "Development Agreement"); and

WHEREAS, the Development Agreement was recorded with the Maricopa County Recorder's Office on November 13, 2008 as document number 2008-0974930 and a First Amendment to the Development Agreement was entered into between the parties and was recorded as document number 2011-0456474; and

WHEREAS, the Development Agreement provides for DMB Mesa Proving Grounds LLC, to receive development impact fee credits for certain improvements; and

WHEREAS, DMB Mesa Proving Grounds LLC, agrees to permanently and unconditionally waive and release the City from having to provide such impact fee credits under the Development Agreement; and

WHEREAS, the City agrees to reimburse DMB Mesa Proving Grounds LLC, from available bond funds for certain public infrastructure that promotes the strategic goal of continued economic development of non-residential projects; and

WHEREAS, as a result of the recent economic downturn construction of certain accelerated infrastructure projects will not proceed in accordance with the time frames originally anticipated and established in the Development Agreement and need to be extended; and

WHEREAS, the City of Mesa desires to amend the Development Agreement with a Second Amendment; and the City Council hereby determines that the Second Amendment furthers the original purpose of the Development Agreement.

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

Section 1: That the Second Amendment to the Pre-Annexation and Development Agreement (Mesa Proving Grounds) is hereby approved.

Section 2: That the City Manager, Christopher J. Brady, or his designated representative, is authorized and directed to execute the Second Amendment, together with all other documents necessary to carry out the provisions of the Second Amendment. The City Manager is further authorized to approve minor, administrative, technical, procedural and non-material modifications to the Second Amendment and all of its exhibits, as needed.

Section 3: That the City Clerk, DeeAnn S. Mickelsen, or her designated representative, is authorized and directed to attest to the signature of the City Manager, or his designated representative, on the Second Amendment together with all other documents necessary to carry out the provisions of the Second Amendment.

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County, Arizona this 18th day of November, 2013.

APPROVED:



Mayor

ATTEST:



City Clerk

