

RESOLUTION NO. 10335

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 EASTMARK GAYLORD PROPERTY ENTITLEMENTS DEVELOPMENT AGREEMENT WITH DMB MESA PROVING GROUNDS LLC, AND EASTMARK COMMERCIAL HOLDINGS I LLC, TO EXTEND PERFORMANCE DATES IN THE DEVELOPMENT AGREEMENT.

WHEREAS, the City of Mesa, Gaylord Mesa LLC, and DMB Mesa Proving Grounds LLC, entered into a development agreement in November 2008 detailing various promises by the parties relating to the development of two parcels abutting the south side of Elliot Road in the general vicinity of the alignment of Crismon Road in the Mesa Proving Grounds (the "Development Agreement"); and

WHEREAS, the Development Agreement was recorded with the Maricopa County Recorder's Office on November 3, 2008 as document number 2008-0974929 and a First Amendment to the Development Agreement was entered into between the parties and was recorded as document number 2011-0456473; and

WHEREAS, Eastmark Commercial Holdings I LLC, has accepted an assignment of the interest, and assumed the obligations, of Gaylord Mesa LLC, thereunder pursuant to that certain Assignment and Assumption of Pre-Annexation and Development Agreement, that assignment was recorded with the Maricopa County Recorder's Office on September 26, 2012 as document number 2012-0890219; and

WHEREAS, as a result of the economic downturn certain performance dates need to be extended to preserve the status quo between the parties related to the Development Agreement;

WHEREAS, 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 (Eastmark - Gaylord Property Entitlements) 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 7th day of October, 2013.

APPROVED:



Mayor

ATTEST:



City Clerk

