

RESOLUTION NO. 10374

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE FACILITIES USE AGREEMENT WITH THE CHICAGO CUBS BASEBALL CLUB, LLC, AND TO EXECUTE A FIRST AMENDMENT TO THE OPTION AGREEMENT WITH MESA DEVELOPMENT HOLDINGS, LLC, TO MAKE CONFORMING CHANGES BASED ON THE ACTUAL DEVELOPMENT OF THE SPRING TRAINING FACILITIES SITE AND TO MAKE CHANGES TO ALLOW THE CITY TO ENTER INTO AND/OR COMPLETE THE AGREEMENTS THE CITY SEEKS TO ENTER INTO WITH BCY LIMITED PARTNERSHIP FOR THE DEVELOPMENT OF THE SPRING TRAINING FACILITIES SITE.

WHEREAS, the City of Mesa ("City") and Chicago Cubs Baseball Club, LLC ("Cubs"), entered into a development agreement recorded with the Maricopa County Recorder's Office on December 6, 2011 as document number 2011-1004059 to construct new Spring Training Facilities in Mesa; and

WHEREAS, a Facilities Use Agreement (the "FUA") between the City and Cubs recorded with the Maricopa County Recorder's Office on December 6, 2011 as document number 2011-1004062, the City leased to the Cubs the Spring Training Facilities with certain qualifications and limitations; and

WHEREAS, the City and Mesa Development Holdings, LLC, a Delaware limited liability company ("MDH"), entered into that certain Option Agreement recorded with the Maricopa County Recorder's Office on December 6, 2011 as document number 2011-100406 (the "Existing Option Agreement"), in which City granted MDH rights to purchase certain real property in the Spring Training Facilities Site as is specifically described in the Existing Option Agreement; and

WHEREAS, certain areas within the Spring Training Facilities Site are intended for future development that would enhance the Spring Training Facilities, such as hotel and hospitality improvements; and

WHEREAS, BCY Limited Partnership, an Arizona limited partnership ("BCY") desires to construct certain hospitality and retail improvements to enhance the Spring Training Facilities, and is willing to provide a certain amount of parking for the Spring Training Facilities Site; and

WHEREAS, City and BCY desire to enter into a Development Agreement and Option Agreement and an Agreement to Purchase Real Property and Escrow Instructions for certain property located within the Spring Training Facilities Site to allow for such development at the Spring Training Facilities Site; and

WHEREAS, such property within the Spring Training Facilities is subject to existing option rights to MDH under the Existing Option Agreement, and the City is seeking to amend the Existing Option Rights in the First Amendment to the Option Agreement so as to allow the City and BCY to proceed with the Agreement to Purchase Real Property and Escrow Instructions and the Development Agreement and Option Agreement as contemplated by City and BCY; and

WHEREAS, certain terms and exhibits within the FUA are not consistent with the actual construction and use of the Spring Training Facilities Site and conforming changes to the FUA are appropriate; and

WHEREAS, the City Council hereby determines it is appropriate to enter into a First Amendment to the Facilities Use Agreement with the Cubs and into a First Amendment to the Option Agreement with MDH.

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

Section 1: That the City Manager, or his designee, is authorized and directed to execute a First Amendment to the Facilities Use Agreement and a First Amendment to the Option Agreement to make conforming changes based on the actual development and use of the Cubs Spring Training Facilities Site and to make changes to allow the City to enter into and/or complete the agreements the City seeks to enter into with BCY Limited Partnership (*i.e.*, a Development Agreement and Option Agreement and an Agreement to Purchase Real Property and Escrow Instructions) for the development of the Spring Training Facilities Site, and to make any other necessary minor or administrative modifications and to execute all other documents and amendments necessary to carry out the provisions of such First Amendments.

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 19th day of December, 2013.

APPROVED:



Mayor

ATTEST:



City Clerk

