

CITY CLERK DEPT
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**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Economic & International Development Department

AGENDA DATE: CCA Regular, October 1, 2019

CONTACT PERSON/PHONE: Jessica Herrera, Director, (915) 212-1624

DISTRICT(S) AFFECTED: Districts 1 & 8

SUBJECT:

That the City Manager be authorized to sign the First Amendment to the Economic Development Program Agreement between the City of El Paso (the "City") and EPT MESA DEVELOPMENT L.P., a Delaware Limited Partnership, EPT MONTECILLO DEVELOPMENT WEST, L.P., Texas Limited Partnership, and EPT MONTECILLO DEVELOPMENT EAST, L.P., a Texas Limited Partnership (collectively, the "Applicant"). This First Amendment adjusts required property valuation amounts; revises the term and grant period; and revises property tax incentive percentages. In consideration for entering into this First Amendment, the City and Applicant agree to exclude certain property for purposes of calculating annual grant calculations payable by the City to Applicant. (Districts 1 & 8) [Economic & International Development Department, Jessica Herrera, Director, (915) 212-1624]

BACKGROUND/DISCUSSION:

The First Amendment to the Chapter 380 Economic Development Program Agreement by and between the City of El Paso and EPT Mesa Development, L.P., EPT Montecillo Development West, L.P., and EPT Montecillo Development East, L.P. will allow for:

- The revision of the property tax valuation requirements in relation to specified dates;
- The revision of the term and grant period;
- The revision of the property tax rebate percentages related to specified dates;
- The removal of the "Top Golf" site from consideration of the property tax rebates.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

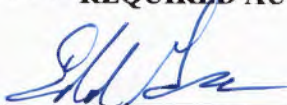
General fund

BOARD/COMMISSION ACTION:

Enter appropriate comments or N/A.

N/A

*****REQUIRED AUTHORIZATION*****

For 
DEPARTMENT HEAD: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the First Amendment to the Economic Development Program Agreement between the City of El Paso (the "City") and EPT MESA DEVELOPMENT L.P., a Delaware Limited Partnership, EPT MONTECILLO DEVELOPMENT WEST, L.P., Texas Limited Partnership, and EPT MONTECILLO DEVELOPMENT EAST, L.P., a Texas Limited Partnership (collectively, the "Applicant"). This First Amendment adjusts required property valuation amounts; revises the term and grant period; and revises property tax incentive percentages. In consideration for entering into this First Amendment, the City and Applicant agree to exclude certain property for purposes of calculating annual grant calculations payable by the City to Applicant.

APPROVED this _____ day of _____, 2019.

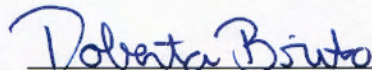
CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

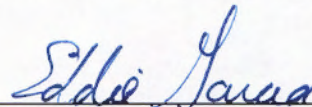
Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:



fo. Jessica Herrera, Director
Economic & International Development

STATE OF TEXAS) **FIRST AMENDMENT TO**
) **CHAPTER 380 ECONOMIC DEVELOPMENT**
) **PROGRAM AGREEMENT**
COUNTY OF EL PASO))

This First Amendment to the Chapter 380 Economic Development Program Agreement (this "Amendment") is made this ___ day of _____, 2019, by and between the **CITY OF EL PASO** (the "City"), a Texas home rule municipal corporation, and **EPT MESA DEVELOPMENT L.P.**, a Delaware Limited Partnership, **EPT MONTECILLO DEVELOPMENT WEST, L.P.**, Texas Limited Partnership, and **EPT MONTECILLO DEVELOPMENT EAST, L.P.**, a Texas Limited Partnership (collectively, "Applicant"), for the purposes and considerations stated below:

WHEREAS, on April 26, 2011, the City and Applicant entered into an Economic Development Program Agreement (the "Agreement") for the purposes of promoting local economic development and stimulating business and commercial activity within the City of El Paso; and

WHEREAS, Applicant requested the economic development grant to construct the Smart Code Master Planned Community, a large-scale redevelopment project which will create complete neighborhoods containing multi-family and single-family detached housing, active senior living, mixed use commercial, parks, open space, and components of a mass transit system; and

WHEREAS, Applicant has requested an adjustment to the required property valuation amounts; and

WHEREAS, in consideration of being provided the adjustment to the required property valuation amounts, Applicant agrees to exclude the "Top Golf" property for the purposes of calculating the yearly Grant payment.

NOW, THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Section 2. Term and Grant Period is revised to read as follows:

Except as otherwise provided herein, the term of this Agreement shall commence on the Effective Date (as hereinafter defined in Section 8 below) and shall terminate on the first of the following to occur: (i) the date when the Grant amount is fully paid; (ii) eighteen years from the commencement of the Amended Grant Period, as such term is defined below, plus any time thereafter that is needed to process the final Grant payment; or (iii) the termination of this Agreement in accordance with the applicable provisions contained herein. For purposes of this Amendment, Applicant's eligibility for annual Grant payments shall be limited to eighteen (18) consecutive years (the "Amended Grant Period") within the term of this Agreement. For purposes of this Amendment, the Amended Grant Period

shall commence with the filing of a Grant Submittal Package no sooner than July 1, 2020 or within 30 days after July 1, 2020. Thereafter, the annual Grant Submittal Package shall be submitted on July 1, of each Grant year or within 30 days after July 1. A failure by Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant Year.

2. Section 3.A.1 Obligations of Applicant is revised to read as follows:

Within twenty four (24) months of the Effective Date, Applicant agrees to commence, or cause to be commenced, the construction of the Development, at its sole cost and expense, or the expense of third parties, the Development as depicted in Applicant's preliminary regulating plan in Exhibit "D". Further, Applicant agrees to satisfy or cause to be satisfied certain construction build-out requirements for each Phase of the Development such that the valuation of the Property in the Development is that determined by El Paso Central Appraisal and as shown in Exhibit "E". Failure of the Applicant to satisfy or cause to be satisfied certain construction build-out requirements for each Phase of the Development such that the valuation of the Property in the Development is that determined by El Paso Central Appraisal and as shown in Exhibit "E" will result in the Applicant waiving Grant payment for that Grant year.

3. Section 3. C.1 Obligations of Applicant is revised to read as follows:

For purposes of this Amendment, and upon approval by City Council of this Amendment, Applicant will be eligible to receive on a yearly basis a Grant payment, determined as follows: for tax years 2020 through and including 2022, an amount equal to one hundred percent (100%) of the City's portion of ad valorem real property tax increment revenue generated from the Property in the Development based upon the increased value of the Property over the Base Property Tax Valuation; for tax years 2023 through and including 2032, an amount equal to fifty percent (50%) of the City's portion of ad valorem real property tax increment revenue generated from the Property in the Development based upon the increased value of the Property over the Base Property Tax Valuation; for tax years 2033 through and including 2037, an amount equal to twenty five percent (25%) of the City's portion of ad valorem real property tax increment revenue generated from the Property in the Development based upon the increased value of the Property over the Base Property Tax Valuation. For any and all Grant payments the ad valorem real property tax increment revenue must be attributable to the Property's increase in property tax value as determined by the El Paso Central Appraisal District and collected by the City in the fiscal year. For purposes of calculating the yearly property valuation, the City will include the property value of the "Top Golf" property described as follows: All of Lot 2, Block 40, Montecillo Unit 11, El Paso County, Texas and All of Lot 1, Block 40, Montecillo Unit 11, El Paso County, Texas. However, for purposes of calculating the yearly Grant payment, the City will exclude the "Top Golf" property described as follows: All of Lot 2, Block 40, Montecillo Unit 11, El Paso County, Texas and All of Lot 1, Block 40, Montecillo Unit 11, El Paso County, Texas.

4. **Exhibit “E”** is revised to read as follows:

<u>Year</u>	<u>Valuation</u>
2020-2024	\$105,000,000
2025-2029	\$198,000,000
2030-2037	\$345,000,000

5. **Section 8.V. Notices** is revised, in part, to change the City of El Paso’s notification information as follows:

CITY: City of El Paso
City Manager
P.O. Box 1890
El Paso, TX 79950-1890

Copy To: City of El Paso
Director
Economic and International Development
P.O. Box 1890
El Paso, TX 79950-1890

6. Applicant shall be considered in good standing as of the date this First Amendment is executed by all the parties (“Amendment Date”). Applicant’s failure to comply with the terms of the Agreement prior to the Amendment Date, including but not limited to Applicants failure to provide any items as set forth in Section 8(D) of the Agreement, shall not be considered an event of default. However, Applicant will be required to submit any and all items listed in Section 8(D) of the Agreement, within 60 days of the Effective Date of this Amendment.

7. Except as amended herein, the Agreement between the City and Applicant shall remain in full force and effect.


[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of the _____ day of _____, 2019.

CITY OF EL PASO:

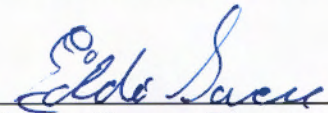
Tomás González
City Manager

APPROVED AS TO FORM:



Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:



for Jessica Herrera, Director
Economic & International Development

[SIGNATURES CONTINUE ON FOLLOWING PAGE.]

APPLICANT:

EPT Mesa Development, L.P.
A Delaware limited partnership

By its General Partner
EPT MESA DEVELOPMENT MANAGEMENT, LLC
A Delaware Limited Liability Company

By its Manager
EPT Land Management, LLC
A Texas Limited Liability Company

By its Manager
Mountain Sunshine, LLC
A Texas Limited Liability Company

By: 
Richard Aguilar, Manager

EPT Montecillo Development East, L.P.
A Texas Limited Partnership

By its General Partner
EPT Montecillo Development Management, LLC
A Texas Limited Liability Company

By: 
Richard Aguilar, Manager

EPT Montecillo Development West, L.P.
A Texas Limited Partnership

By its General Partner
EPT Montecillo Development Management, LLC
A Texas Limited Liability Company

By: 
Richard Aguilar, Manager

[ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE]

