

AGENDA ITEM #: \_\_\_\_\_

DATE: December 7, 2020

CAR #: 2020-7123



## CITY COUNCIL ACTION REPORT

**SUBJECT:** Approve First Amendment of the Development Agreement for Elwood Logistics Center

**STAFF PRESENTER(S):** Stephen Scinto, Deputy Director of Engineering

**OTHER PRESENTER(S):** None

**Summary:** The First Amendment to the Development Agreement for Elwood Logistics Center modifies the deadline for the completion of off-site infrastructure improvements the property owner is to construct, in exchange for the drainage and retention easement allowing offsite drainage to be stored on the Elwood Logistics site.

**Recommendation:**

ADOPT RESOLUTION NO. 2020-2119 CONDITIONALLY APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR ELWOOD LOGISTICS CENTER (THE “FIRST AMENDMENT”); PROVIDING FOR AN EFFECTIVE DATE OF THE FIRST AMENDMENT; PROVIDING AUTHORIZATION AND DIRECTION; PROVIDING A DEADLINE FOR EXECUTION OF THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE OF THE RESOLUTION.

**Fiscal Impact:** This amendment does not change the direct fiscal impact of the Development Agreement for the Elwood Logistics Center which required the city to make reimbursements of up to \$1.3 million for non-required street improvements. It extends the eligibility of making that reimbursement from plan review and permit fees incurred for the construction of the 650,000 to 1.3 million square foot building addressed in the agreement. Finally, this amendment provides, at no cost to the city, easement needed for the required street improvements.

### Background and Previous Actions

Elwood Logistics Center, LLC, a Delaware limited liability company (“Elwood Logistics”) owns approximately 79 acres of land generally located at the southeast corner of Sarival Avenue and Elwood Street commonly known as Elwood Logistics Center (the “Property”). Owner is developing the Property for industrial uses suitable for use as a warehouse and/or distribution facility, which will generate truck traffic into and out of the Property. Truck traffic on Sarival Avenue is restricted and the City is interested in having full-street improvements for the section of Elwood Street from the northeast corner of the Property to Estrella Parkway fully constructed as a Minor Collector to provide connectivity between Sarival Avenue and Estrella Parkway.

On April 22, 2019, Council approved Resolution 2019-1946 conditionally approving a Development Agreement for Elwood Logistics Center, which was recorded in the Official Records of Maricopa County on June 6, 2019 at Instrument 2019-0427161 (the “Elwood Logistics Development Agreement”). Under the terms of the Elwood Logistics Development Agreement, Owner is required to construct half-street improvements within the Elwood Street alignment along the frontage of properties located between Sarival Avenue and Estrella Parkway, not owned by Owner, including improvements along the frontage of the Arizona Galvanizing Property (the “Arizona Galvanizing Elwood Adjacent Improvements”) and along the frontage of the Sun DS Farms (now known as Avion) Property (the “Sun DS Farms Elwood Adjacent Improvements”) (collectively the “Elwood Adjacent Improvements”). The Elwood Adjacent Improvements were to be completed within one year of the effective date of the Elwood Logistics Development Agreement, which date could be extended for an additional six months by the City Engineer upon certain determinations.

Pursuant to the terms of the Elwood Logistics Development Agreement, the City Engineer approved an extension of the deadline for completing the Elwood Adjacent Improvements, and a letter was issued extending the completion deadline until November 22, 2020. The Elwood Logistics Development Agreement included terms for reimbursements for the costs of the Elwood Adjacent Improvements, subject to certain maximum amounts. The reimbursement terms for the cost of the Elwood Adjacent Improvements were more favorable if the Elwood Adjacent Improvements were completed within the deadline included in the Elwood Logistics Development Agreement.

The Elwood Adjacent Improvements were not completed within the extended deadline for a variety of reasons. These reasons included: delays resulting from coordination efforts between Elwood Logistics and the new owners of the Sun DS Farms Property, Communities Southwest; delays resulting from the need to obtain approvals from Roosevelt Irrigation District; delays resulting from the need to address stormwater run-off from the improvements that were to be made along the frontage of the Arizona Galvanizing Property, including the redesign of the improvements; and the delays resulting from the impact of COVID-19.

## **Staff Analysis**

Elwood Logistics is seeking an amendment to extend the deadline for completing the Elwood Adjacent Improvements in exchange for Owner providing the City, at no cost to the City, an easement to allow for stormwater run-off from the section of Elwood Street along the frontage of the Arizona Galvanizing Property to be retained on the Property and Owner’s agreement to maintain the drainage improvements that are installed pursuant to approved grading and drainage plans for the Property.

Staff is supportive of the amendment. As an initial matter, the completion deadline included in the Elwood Logistics Development, even with the allowance of a six-month extension, was, in hindsight, overly ambitious given the coordination efforts required for the project. Moreover, no one could have predicted the emergence of COVID-19 and the delays resulting from the operational impacts resulting from efforts to combat the spread of COVID-19.

Not only was the completion deadline overly ambitious, but the proposed amendment resolves another issue that the City would have otherwise had to address. A drainage easement is needed to accommodate stormwater run-off from the improvements to Elwood Street along the frontage of Arizona Galvanizing Property. Efforts by representatives of Elwood Logistics to obtain the easement from the owner of the Arizona Galvanizing Property were not successful. Under the terms of the First Amendment, Elwood Logistics has agreed to provide an easement to allow the stormwater run-off from the Elwood Street improvements along the frontage of the Arizona Galvanizing Property to be retained on the Elwood Logistics site.

## **Attachments**

### **1. Resolution 2020-2119 w/following exhibits**

- Exhibit A – First Amendment of the Development Agreement for Elwood Logistics Center with exhibits A-D attached
- Exhibit B – Beneficiary Consent and Subordination to the First Amendment of the Development Agreement for Elwood Logistics Center
- Exhibit C – Leaseholder Consent and Subordination to the First Amendment of the Development Agreement for Elwood Logistics Center