
AGENDA REPORT**Meeting Date:** July 16, 2025**Item Number:** 2**Prepared By:** Jason Greiner**Subject**

Consider and act upon a Second Amendment to the Performance Agreement between the WEDC and Phoenix Ascending Investments, LLC.

Recommendation

Motion to approve a Second Amendment to the Performance Agreement between the WEDC and Phoenix Ascending Investments, LLC.

Discussion

As the Board will recall, the WEDC approved a Performance Agreement with Phoenix Ascending Investments, LLC on June 21, 2023, and the Performance Agreement was executed on November 2, 2023. The Board later approved a First Amendment to the Performance Agreement on January 15, 2025, due to construction delays related to WEDC's installation of John Yeager Way. The first amendment extended the CO Deadline from February 2, 2025, to May 2, 2025. However, Phoenix Ascending still had an option to execute a 90-Day Extension per the contract, which gives them until July 31, to obtain a Certificate of Occupancy.

While Staff believes that Phoenix Ascending could obtain a Temporary Certificate of Occupancy, the intent is to make sure that all of the necessary Building, Engineering, and Fire Inspection approvals have been obtained. It's for that reason that Staff is requesting a Second Amendment and extension of the CO Deadline, which would also eliminate additional options to extend any further.

Original Agreement:

- Effective Date of Agreement: November 2, 2023
- CO Deadline: February 2, 2025

First Amendment:

- CO Deadline: May 2, 2025
- 90-Day Extension of CO Deadline: July 31, 2025

Possible Second Amendment & Corresponding CO Deadlines:

- 30-day: August 30, 2025
- 60-day: September 29, 2025
- 90-day: October 29, 2025