

ORDINANCE NO. 4073

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, TERMINATING THE MASTER DEVELOPMENT AGREEMENT AMENDED AND RESTATED JULY 2005 (AND AS SUBSEQUENTLY AMENDED) BY AND AMONG THE CITY OF MESQUITE, TEXAS, THE MESQUITE INDEPENDENT SCHOOL DISTRICT, FALCON'S LAIR UTILITY AND RECLAMATION DISTRICT, FALCON'S LAIR, LP, AND KOLL DEVELOPMENT COMPANY; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, the City established Falcon's Lair Tax Increment Finance Reinvestment Zone Number Four, City of Mesquite, Texas (the "Zone"), and established a Board of Directors for the Zone to promote development or redevelopment in the Zone pursuant to Ordinance No. 3303 approved by the City Council on June 7, 1999, in accordance with the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code, Vernon's Texas Codes Annotated (the "Act"); and

WHEREAS, the Board of Directors of Falcon's Lair Tax Increment Finance Reinvestment Zone Number Four, City of Mesquite, Texas (the "Board"), on August 2, 1999, prepared and adopted a Project Plan and Financing Plan for the Zone pursuant to Ordinance No. 3314 approved by the City Council on August 16, 1999; and

WHEREAS, the Board, on August 2, 2000, prepared and adopted a Revised Project Plan and Financing Plan pursuant to Ordinance No. 3380 approved by the City Council on August 7, 2000; and

WHEREAS, the Board, on May 1, 2002, prepared and adopted an Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3503 approved by the City Council on May 20, 2002; and

WHEREAS, the Board, on January 27, 2003, prepared and adopted a Revision of the Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3558 approved by the City Council on February 17, 2003; and

WHEREAS, the Board, on July 21, 2003, prepared and adopted amendments to the Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3590 approved by the City Council on July 21, 2003; and

WHEREAS, the Board, on January 5, 2004, prepared and adopted amendments to the 2004 Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3627 approved by the Council on January 5, 2004; and

WHEREAS, the Board, on July 20, 2005, prepared and adopted amendments to the 2005 Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3754 approved by the City Council on August 1, 2005; and

WHEREAS, the City Council adopted the Master Development Agreement Amended and Restated July 2005 (the "Master Development Agreement") by and among the City of Mesquite, Texas, Mesquite Independent School District, Falcon's Lair Utility and Reclamation District, Falcon's Lair, L.P., and Koll Development Company; and

WHEREAS, the Board, on July 17, 2006, prepared and adopted amendments to the 2006 Amended and Restated Project and Financing Plan pursuant to Ordinance No. 3811 approved by the City Council on July 17, 2006; and

WHEREAS, the Board, on November 27, 2006, prepared and adopted amendments to the November 2006 Amended and Restated Project and Financing Plan pursuant to Ordinance 3842 approved by the City Council on December 4, 2006; and

WHEREAS, notice of default dated October 22, 2009, was provided by the City of Mesquite, Texas, to the parties to the Master Development Agreement with a 60-day cure period; and

WHEREAS, the Board met with Spencer Alpert, on behalf of Falcon's Lair, L.P., on November 12, 2009, to discuss issues regarding the obligations of the parties pursuant to the Master Development Agreement; and

WHEREAS, the 60-day cure period has expired; and

WHEREAS, the Board met on January 4, 2010, and recommended to the City Council that it terminate the Master Development Agreement in response to the failure to cure defaults identified in the notice of default dated October 22, 2009; and

WHEREAS, the City Council finds and determines that the defaults as identified in the notice of default have not been cured during the 60-day cure period, and having considered the obligations of the parties, hereby desires to terminate the Master Development Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE:

SECTION 1. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct, and are incorporated herein for all purposes.

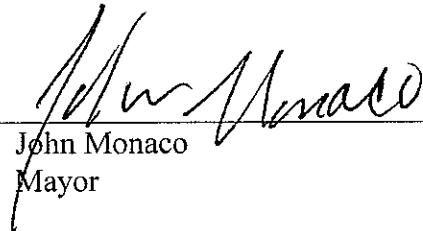
SECTION 2. That the City Council hereby terminates the Master Development Agreement.

SECTION 3. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

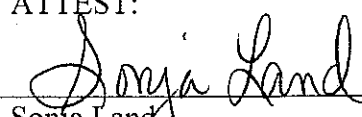
SECTION 4. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 5. That this ordinance shall take effect immediately from and after its passage.

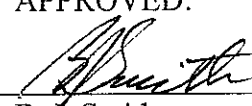
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 4th day of January, 2010.



John Monaco
Mayor

ATTEST:


Sonja Land
City Secretary

APPROVED:


B. J. Smith
City Attorney