

RESOLUTION NO. 26-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A FIRST AMENDMENT TO THE IRON HORSE DEVELOPMENT AGREEMENT TO AMEND THE DEFINITION OF “PUBLIC IMPROVEMENT FINANCING DATE” TO EXTEND THE DATE FOR THE CITY TO APPROVE A BOND PURCHASE AGREEMENT AND ISSUE PUBLIC IMPROVEMENT DISTRICT BONDS FOR THE DEVELOPMENT OF PROPERTY COMMONLY REFERRED TO AS “IRON HORSE VILLAGE” AND BEING GENERALLY LOCATED NORTH OF RODEO DRIVE, SOUTH OF SCYENE ROAD (ALSO KNOWN AS HIGHWAY 352), EAST OF STADIUM DRIVE AND WEST OF RODEO CENTER BOULEVARD WITHIN THE CORPORATE LIMITS OF THE CITY OF MESQUITE IN DALLAS COUNTY, TEXAS.

WHEREAS, on November 19, 2018, the City Council of the City of Mesquite, Texas, adopted Resolution No. 69-2018, approving a Development Agreement effective November 19, 2018, between the City of Mesquite, Texas (“City”), and MM Mesquite 50, LLC, regarding the development of certain real property within the Iron Horse Public Improvement District created by the City on February 4, 2019, by Resolution No. 15-2019 (the “PID”) and being generally located north of Rodeo Drive, south of Scyene Road (also known as Highway 352), east of Stadium Drive and west of Rodeo Center Boulevard within the corporate limits of the City in Dallas County, Texas (the “Agreement”); and

WHEREAS, the City Council has been presented with a First Amendment to the Agreement (“First Amendment”) which amends the definition of “Public Improvement Financing Date,” to extend the date for the City to approve a bond purchase agreement and sell PID bonds, a true and correct copy of such First Amendment being attached hereto as Exhibit “A” and made a part hereof for all purposes; and

WHEREAS, the City Council is of the opinion that the First Amendment is in the best interest of the City and will benefit the City and its citizens.

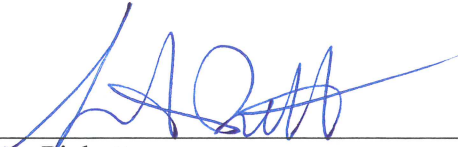
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

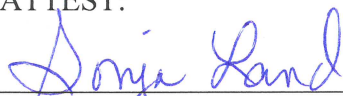
SECTION 1. That the statements, facts, findings and recitals set forth above are hereby found and declared to be true and correct and are incorporated into this Resolution and adopted as part of this Resolution for all purposes.

SECTION 2. That the City Council hereby approves the First Amendment and authorizes the City Manager to finalize and execute the First Amendment.

SECTION 3. That this resolution shall take effect immediately upon passage of this resolution.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 18th day of March 2019.

  
\_\_\_\_\_  
Stan Pickett  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Sonja Land  
City Secretary

APPROVED:  
  
\_\_\_\_\_  
David L. Paschall  
City Attorney

**FIRST AMENDMENT TO IRON HORSE DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO IRON HORSE DEVELOPMENT AGREEMENT (this "First Amendment") is made by and between the **City of Mesquite, Texas**, a Texas home-rule municipality (the "City") and **MM Mesquite 50, LLC**, a Texas limited liability company (the "Developer") to be effective March 18, 2019 (the "Effective Date").

## RECITALS:

**WHEREAS**, the City and Developer are sometimes individually referred to as a "Party" and collectively as the "Parties"; and

**WHEREAS**, the City and the Developer entered into that certain Iron Horse Development Agreement dated effective November 19, 2018 (as amended, the "**Agreement**") relating to the development of certain real property within the Iron Horse Public Improvement District created by the City on February 4, 2019 by Resolution No. 15-2019; and

**WHEREAS**, the recitals contained in this First Amendment: (a) are true and correct as of the Effective Date; (b) form the basis upon which the Parties negotiated and entered into this First Amendment; and (c) reflect the final intent of the Parties with regard to the subject matter of this First Amendment; and

**WHEREAS**, the Parties acknowledge and agree that, except to the extent amended herein, all provisions and terms contained in the Agreement remain in full force and effect; and

**WHEREAS**, the City Council passed and approved the Agreement on November 19, 2018; and

**WHEREAS**, the Parties desire to amend the Agreement to amend the definition of Public Improvement Financing Date; and

**NOW, THEREFORE**, for and in consideration of the mutual covenants of the Parties set forth in this First Amendment, and for good and valuable consideration the receipt and adequacy of which are acknowledged and agreed, the Parties agree as follows:

1. Defined Terms. All capitalized terms used in this First Amendment, to the extent not otherwise expressly defined herein, shall have the meanings ascribed to them in the Agreement.

2. Amendment to Definition of Public Improvement Financing Date. The definition of Public Improvement Financing Date on Page 6 of the Agreement shall be amended to read as follows:

"Public Improvement Financing Date" means the date the City approves a bond purchase agreement and sells the PID Bonds, such date to be no later than July 1, 2019, which date may be extended by written agreement of the Developer and the City upon City Council approval".

3. Miscellaneous.

(a) This First Amendment amends the Agreement in no other manner except as expressly set forth herein. Except as amended herein, the terms, provisions, agreements, covenants and conditions of the Agreement shall continue in full force and effect. In the event of a conflict between this First Amendment and the Agreement, the terms of this First Amendment shall control.

(b) This First Amendment together with the Agreement shall constitute the entire agreement between the Parties and supersedes all prior agreements and understandings, whether oral or written, concerning the subject matter of this First Amendment and the Agreement. This First Amendment and the Agreement shall not be modified or amended except in writing signed by the Parties.

(c) If any provision of this First Amendment is determined by a court of competent jurisdiction to be unenforceable for any reason, then: (a) such unenforceable provision shall be deleted from this First Amendment; (b) the unenforceable provision shall, to the extent possible and upon mutual agreement of the Parties, be rewritten to be enforceable and to give effect to the intent of the Parties; and (c) the remainder of this First Amendment shall remain in full force and effect and shall be interpreted to give effect to the intent of the Parties.

(d) This First Amendment may be executed in one (1) or more counterparts, each of which when taken together shall constitute one and the same instrument.

(e) The City represents and warrants that the individual executing this First Amendment on behalf of the City has been duly authorized to do so. Developer represents and warrants that this First Amendment has been approved by appropriate action of Developer, and that each individual executing this First Amendment on behalf of Developer has been duly authorized to do so.

[SIGNATURES TO FOLLOW]


IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the Effective Date.

**DEVELOPER:**

MM Mesquite 50, LLC,  
a Texas limited liability company

By: MMM Ventures, LLC,  
a Texas limited liability company  
Its Manager

By: 2M Ventures, LLC,  
a Delaware limited liability company  
Its Manager


By:   
Name: Mehrdad Moayed  
Its: Manager

STATE OF TEXAS §  
  §  
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 21 day of March, 2019 by Mehrdad Moayed, Manager of 2M Ventures, LLC, as Manager of MMM Ventures, LLC, as Manager of MM Mesquite 50, LLC, a Texas limited liability company on behalf of said company.



[SEAL]

  
Notary Public, State of Texas

CITY

CITY OF MESQUITE, TEXAS

ATTEST:

Sonja Land  
Name: Sonja Land  
Title: City Secretary


By: Cliff Keheley  
Name: Cliff Keheley  
Title: City Manager

APPROVED AS TO FORM:

Susan House  
City Attorney or Designee

STATE OF TEXAS                   §  
   §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me on this 29<sup>th</sup> day of March, 2019, by Cliff Keheley, City Manager of the City of Mesquite, Texas, a home-rule municipality, on behalf of said home-rule municipality.

[SEAL] 

Susan L. House  
Notary Public, State of Texas