

RESOLUTION NO. 86-2021

A RESOLUTION OF THE CITY OF MESQUITE, TEXAS, CONDITIONALLY CONSENTING TO THE ASSIGNMENT AND ASSUMPTION AGREEMENT BY HQZ PARTNERS, LP, AND MCG-124, LLC (“ASSIGNORS”), TO VERDE CENTER PARTNERS, LLC (“ASSIGNEE”), OF ASSIGNORS’ INTEREST IN A MASTER DEVELOPER AGREEMENT WITH THE CITY OF MESQUITE, TEXAS, REGARDING THE DEVELOPMENT OF APPROXIMATELY 60.31 ACRES OF LAND GENERALLY LOCATED SOUTH OF GROSS ROAD, EAST OF NORTH PEACHTREE ROAD, NORTH OF THE UNION PACIFIC RAILROAD, AND WEST OF INTERSTATE HIGHWAY 635 IN THE CITY OF MESQUITE, TEXAS, AND BEING COMMONLY REFERRED TO AS THE “VERDE CENTER” OR THE “VERDE CENTER AT PEACHTREE”; AND AUTHORIZING THE CITY MANAGER TO FINALIZE, EXECUTE, AND ADMINISTER THE ASSIGNMENT ON BEHALF OF THE CITY.

WHEREAS, pursuant to Resolution No. 30-2018, the City of Mesquite, Texas (the “**City**”), entered into a Master Developer Agreement with HQZ Partners, LP, and MCG-124, LLC (“**Assignors**”), and the Mesquite Medical Center Management District (the “**District**”) (the “**Agreement**”) generally providing for the development of approximately 60.31 acres of land generally located south of Gross Road, east of North Peachtree Road, north of the Union Pacific Railroad and west of Interstate Highway 635 in the City and commonly referred to as the “Verde Center” or the “Verde Center at Peachtree”; and

WHEREAS, on or about June 8, 2018, Assignors entered into that certain Reimbursement Agreement by and between the District and Assignors (“**Reimbursement Agreement**”) generally providing the terms and conditions under which the Assignors may be reimbursed for certain costs of public improvements constructed by Assignors; and

WHEREAS, Assignors desire to enter into an Assignment and Assumption Agreement with Verde Center Partners, LLC (“**Assignee**”), substantially in the form attached hereto as Exhibit A and incorporated herein by reference (the “**Assignment**”), under which Assignors will assign to Assignee, and Assignee will assume from Assignors, all of Assignors’ rights, duties, and obligations, and liabilities to timely keep and perform all terms, provisions, agreements, covenants, conditions, and obligations of Assignors under the terms of the Agreement; and

WHEREAS, by separate instrument to which the City is not a party, Assignors’ desire to assign to Assignee, and Assignee desires to assume from Assignors, all of Assignors’ rights, duties, obligations, and liabilities to timely keep and perform all terms, provisions, agreements, covenants, conditions, and obligations of Assignors under the terms of the Reimbursement Agreement; and

WHEREAS, pursuant to the terms of the Assignment, the City is willing to grant its conditional consent to the Assignment, in accordance with Article V(b) of the Agreement.

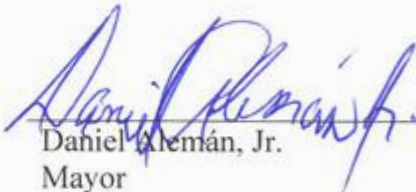
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
MESQUITE, TEXAS:

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. The City Council finds and determines that the conditional consent by the City to the Assignment, and in accordance with the terms of the Assignment, is in the best interest of the City and its citizens.

SECTION 3. The City Council hereby authorizes the City Manager to finalize and execute the Assignment substantially in the form attached hereto as Exhibit A for the purpose of evidencing the City's conditional consent to the Assignment in accordance with the terms of the Assignment, to execute such other documents as necessary to facilitate performance of the Assignment and to administer the Assignment on behalf of the City.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 6th day of December 2021.


Daniel Alemán, Jr.
Mayor

ATTEST:


Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:

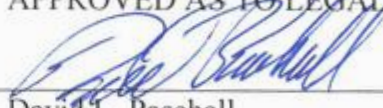

David L. Paschall
City Attorney

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

HQZ PARTNERS, LP, AND MCG-124, LLC,

TO

VERDE CENTER PARTNERS, LLC

APPROVED BY CITY COUNCIL
DATE 12.6.2021
AGENDA ITEM NO. 33

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

HQZ PARTNERS, LP and MCG-124, LLC, as Assignor

to

VERDE CENTER PARTNERS LLC, as Assignee

ASSIGNMENT AND ASSUMPTION AGREEMENT

Dated: As of Dec 6, 2021

Location 21100 LBJ Freeway, Mesquite, Texas 75149

County: Dallas

PREPARED FOR OR BY AND UPON
RECORDATION RETURN TO:

Duval & Stachenfeld LLP
555 Madison Avenue, 6th Floor
New York, New York 10022
Attention: Ilya Leyvi, Esq.
File No.: 4326.0003

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made and entered into as of this 6 day of December, 2021 (the "Effective Date") by and between HQZ Partners, LP, a Texas limited partnership having its principal place of business located at P.O. Box 800413, Dallas Texas, 75240, acting by and through its general partner, Lang and Company, LLC, together with its affiliate MCG-124, LLC, a Texas limited liability company having its principal place of business located at P.O. Box 800413, Dallas Texas 75240 (collectively, "Assignor"), and Verde Center Partners, LLC, a Texas limited liability company having its principal place of business located at 16800 Westgrove Drive, Suite 100, Addison, Texas 75001 ("Assignee"). Assignor and Assignee are collectively referenced herein as the "Parties" and sometimes individually referred to as a "Party."

RECITALS

WHEREAS, on or about June 8, 2018, Assignor entered into that certain Master Developer Agreement by and between the City of Mesquite, Texas (the "City"), Assignor, and Mesquite Medical Center Management District (the "District") (the "Master Developer Agreement"); and

WHEREAS, on or about June 8, 2018, Assignor entered into that certain Reimbursement Agreement by and between Mesquite Medical Center Management District (the "District") and Assignor (the "Reimbursement Agreement");

WHEREAS, in accordance with the terms of the Master Developer Agreement, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights, duties, obligations and liabilities to timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations of Assignor under the terms of the Master Developer Agreement from and after the Effective Date (collectively, the "Master Developer Agreement Obligations");

WHEREAS, in accordance with the terms of the Reimbursement Agreement and by separate instrument, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's rights, duties, obligations and liabilities to timely keep and perform all terms, provisions, agreements, covenants, conditions and obligations of Assignor under the terms of the Reimbursement Agreement from and after the Effective Date (collectively, the "Reimbursement Agreement Obligations"); and

WHEREAS, the City is willing to grant its prior written and conditional consent to Assignor's assignment of the Master Developer Agreement to Assignee as provided in this Agreement, in accordance with Article V(b) of the Master Developer Agreement.

NOW, THEREFORE, in consideration of the foregoing, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions/Recitals Incorporated. Unless otherwise defined in this Agreement, all capitalized terms used herein shall have the meanings ascribed to such terms in the Master Developer Agreement. The recitals set forth hereinabove in this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

2. Assignment. Assignor hereby transfers, assigns and sets over to Assignee, its permitted successors and assigns, all of Assignor's right, title, and interest in, to and under the Master Developer Agreement (the "Assignment"), it being acknowledged and agreed by Assignor that from and after the Effective Date, and satisfaction of all conditions enumerated in Section 6 of this Agreement, Assignor shall have no rights or interest with respect to the Master Developer Agreement.

3. Assumption. Assignee hereby accepts the Assignment and assumes and agrees to be bound by and timely keep and perform the Assignor's Master Developer Agreement Obligations and Assignor's Reimbursement Agreement Obligations arising from and after the Effective Date of this Agreement.

4. Indemnity. Assignor hereby indemnifies and holds harmless Assignee from and against any and all liabilities, costs, damages and expenses (including, without limitation, attorney's fees, costs and disbursements and costs incurred in connection with the enforcement of the foregoing indemnification obligation) arising out of the Master Developer Agreement prior to the Effective Date. Assignee hereby indemnifies and holds harmless Assignor from and against any and all liabilities, costs, damages and expenses (including, without limitation, attorney's fees, costs and disbursements and costs incurred in connection with the enforcement of the foregoing indemnification obligation) arising out of the Master Developer Agreement from and after the Effective Date.

5. Representations. Assignor represents and warrants that there are no defaults by Assignor under the Master Developer Agreement. The Parties represent each is duly formed, validly existing and in good standing under the laws of the State of Texas and is duly authorized to transact business in the State of Texas. Each Party represents that it has the full power and authority to enter into and fulfill its obligations under this Agreement and that the person signing this Agreement on behalf of the Party has the authority to sign this Agreement on behalf of the Party.

6. The City's Conditional Consent.

A. Subject to the terms provided in this Agreement, the City, by its execution below, hereby expressly and conditionally consents to the assignment of the Master Developer Agreement by Assignor to Assignee, and the assumption by Assignee of Assignor's interest in the Master Developer Agreement and Master Developer Agreement Obligations, as set forth in this Agreement, which consent is subject to the provisions of this Section 6 and the effectiveness of which is conditioned upon the timely and complete performance and satisfaction of each and every of the following conditions precedent:

- (i) On or before December 20, 2021, Assignor shall cause the payment to the City and Mesquite Independent School District ("MISD")

in good and sufficient funds all current and past due ad valorem taxes and related penalties and interest due and owing for and on the Property;

(ii) On or before December 20, 2021, Assignor shall cause the sum of TWENTYTHOUSAND AND 00/100 DOLLARS (\$20,000.00) in good and sufficient funds to be deposited with the City which the City shall use for the sole purpose of paying to the City and MISD ad valorem taxes owed on the Property for tax year 2022. Assignor and the owner of the Property shall remain responsible for timely paying any deficiency resulting after application of the deposited funds. After payment of ad valorem taxes for tax year 2022, any excess amount of the deposited funds shall be returned by the City to Assignee, 16800 Westgrove Dr., Suite 100, Addison, Texas 75001. No interest shall accumulate on the deposited funds.

(iii) On or before December 20, 2021, Assignor shall cause the sum of EIGHT HUNDRED EIGHT AND 73/100 (\$808.73) in good and sufficient funds to be paid to the City in satisfaction of expenses incurred by the City in correcting conditions upon the Property in or about March 2021 that, after notice and request, were not corrected by Assignor.

(iv) On or before December 20, 2021, Assignor shall provide a copy of the recorded deed conveying title to all 60.31 acres of land comprising the Property to Assignee.

(v) Notwithstanding Section 8 of this Agreement, an original of this Agreement fully executed by the Parties shall be provided to the City on or before December 20, 2021.

B. In the event the foregoing conditions precedent are not timely and completely satisfied, the City's Conditional Consent is void and of no effect whatsoever. The Release provided in Section 7 of this Agreement, however, will remain in full force and effect in this event.

C. This City's Conditional Consent applies only to the specific transaction set forth in this Agreement and does not constitute a waiver of the necessity for such consent to any subsequent assignment of the Master Developer Agreement.

D. This City's Conditional Consent does not consent to any terms in contravention of any provision of the Master Developer Agreement or Reimbursement Agreement and does not in any manner constitute an amendment to the Master Developer Agreement or Reimbursement Agreement.

E. Notwithstanding any other provision in this Agreement, this City's Conditional Consent does not release Assignor from any liability that resulted from an act or omission of Assignor that occurred prior to the Effective Date of this Agreement.

F. The City's Conditional Consent does not in any manner constitute a representation or warranty of any kind with respect to the Master Developer Agreement or Reimbursement Agreement or any matter relating to such agreements.

7. Assignor's Unilateral and Global Release of City and Indemnification Agreement. In exchange for the City's agreement to provide the foregoing City's Conditional Consent and \$10.00, which Assignor (meaning both HQZ Partners, LP, and MCG-124, LLC) acknowledges as good and valuable consideration for this unilateral and global release and indemnification agreement even in the event the City's Conditional Consent should become void and of no effect whatsoever as a result of the failure of any one or more of the conditions precedent to the effectiveness of the City's Conditional Consent, Assignor does hereby forever release, acquit and discharge the City, its past, present and future officers, councilmembers, employees, sureties, insurers, reinsurers, underwriters, risk pools (including the Texas Municipal League Intergovernmental Risk Pool), agents, successors, assigns, personal representatives, attorneys and other representatives (collectively the "Released Parties"), from the beginning of the world to the Effective Date of this Agreement, from any and all claims, demands, causes of action and damages of whatever kind or character, including but not limited to those arising directly or indirectly under the Master Developer Agreement and Reimbursement Agreement including all conduct thereunder, whether statutory, contractual or in equity, known or unknown, fixed or contingent, liquidated or unliquidated, which Assignor now has or had in the past. Assignor represents and warrants that as of the Effective Date of this Agreement that Assignor has not assigned any such claims. **ASSIGNOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE RELEASED PARTIES AGAINST THE FULL AMOUNT OF ANY LIABILITY, LOSS, CLAIM, DAMAGE OR EXPENSE (INCLUDING ATTORNEYS' FEES INCURRED AND ANY JUDGMENT REQUIRED TO BE PAID) IN CONNECTION WITH ANY CLAIM OR DEMAND MADE AGAINST A RELEASED PARTY WHICH CLAIM OR DEMAND ARISES OUT OF THE CLAIMS RELEASED HEREIN BY ASSIGNOR.** This release is global in nature and not limited by any of the foregoing, and extends to and includes any and all matters and causes of action regardless of any legal theory that may be asserted including but not limited to breach of contract, implied covenants, negligence, misrepresentation, specific performance or other contractual or equitable remedy, or violation of any local, state or federal statute, rule or regulation, and all types of damages including but not limited to loss of income or profits, property damages, consequential and punitive damages, and attorneys' fees, whether or not they have fully matured or are appreciated at this time. Assignor represents and warrants that Assignor grants this unilateral and global release and indemnity agreement upon the freewill and judgment of the authorized persons signing on behalf of Assignor and such persons state by signing this Agreement that such persons, nor anyone else acting for or on behalf of Assignor, were not induced to grant this unilateral and global release by any statement, act or representation of any kind or character on the part of the Released Parties.

8. Miscellaneous. This Agreement: (i) may be executed in multiple counterparts (whether original, facsimile, portable document format or otherwise), all of which taken together constitute one and the same instrument; (ii) may not be canceled, modified or amended except by written instrument executed by all Parties hereto and upon the written consent of the City, which consent shall be at the sole and absolute discretion of the City; (iii) contains the entire agreement between the Parties hereto and is entered into after full investigation, with neither Party relying

upon any statement or representation made by another, including the City, not contained in this Agreement; and (iv) shall apply to and bind the permitted successors and assigns of Assignee and Assignor. If any term or provision of this Agreement shall, to any extent, be determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected and each term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding the foregoing, if any part or all of Section 7 of this Agreement is determined to be invalid or unenforceable, then the remainder and all of this Agreement shall be invalid and unenforceable.

9. The notice address for Assignee for purposes of Section 17.02 of the Master Developer Agreement is as follows:

Verde Center Partners, LLC
16800 Westgrove, Drive, Suite 100
Addison, Texas 75001

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

ASSIGNOR:

HQZ PARTNERS LP,
a Texas limited partnership

By: Lang and Company, LLC
General Partner

By: Jim Lang
Name: James D. Lang, Jr.
Title: Manager

Acknowledgement

STATE OF TEXAS

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§
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COUNTY OF DALLAS

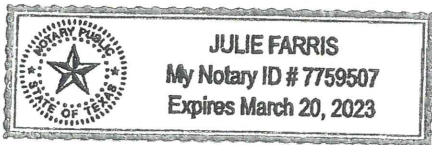
This instrument was ACKNOWLEDGED before me on December 3, 2021, by Jim Lang, in his/her capacity as MANAGER of Lang and Company, LLC, a Texas limited liability company, the general partner of HQZ Partners LP, on behalf of said limited partnership. He/she is personally known to me or has produced KNOWN TO ME as identification.

[SEAL]

Julie Farris
Notary Public - State of TEXAS

My Commission Expires: 3/20/23

JULIE FARRIS
Printed Name of Notary Public



MCG-124, LLC
a Texas limited liability company

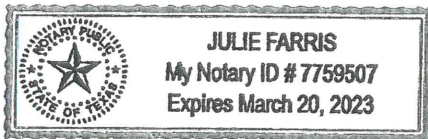
By: Jim Lang
Name: James D. Lang, Jr.
Title: Manager

Acknowledgement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was ACKNOWLEDGED before me on December 3, 2021, by Jim Lang, in his/her capacity as Manager of MCG-124, LLC, a Texas limited liability company, on behalf of said limited liability company. He/she is personally known to me or has produced knows to me as identification.

[SEAL]



Julie Farris
Notary Public - State of Texas
My Commission Expires: 3/20/23

Julie FARRIS
Printed Name of Notary Public

ASSIGNEE:

VERDE CENTER PARTNERS, LLC,
a Texas limited liability company

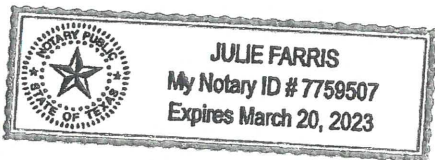
By: Warner E Stone
Name: Warner E. Stone
Title: Manager

Acknowledgement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was ACKNOWLEDGED before me on December 3, 2021, by Warner E. Stone, in his capacity as Manager of VERDE CENTER PARTNERS LLC, a Texas limited liability company, on behalf of said limited liability company. He is personally known to me or has produced his Texas Driver's License as identification.

[SEAL]



Julie Farris
Notary Public - State of Texas

My Commission Expires: 3/20/23
Julie FARRIS
Printed Name of Notary Public

Execution hereof on behalf of the City of Mesquite, Texas is for purposes of the City's Conditional Consent only. By its execution, the City does not affirm any representation made in the Assignment by the Parties.

CITY:

CITY OF MESQUITE

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

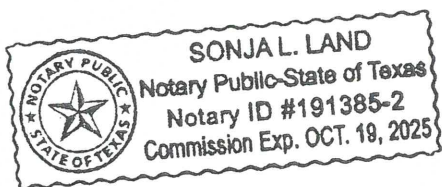
Acknowledgement

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was ACKNOWLEDGED before me on December 8, 2021, by Cliff Keheley, in his/her capacity as City Manager of the CITY OF MESQUITE, on behalf of said City. He is personally known to me or has produced _____ as identification.

[SEAL]

Sonja L. Land
Notary Public - State of Texas



My Commission Expires: 10.19.2025
Sonja L. Land
Printed Name of Notary Public