

RESOLUTION NO. 43-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING A FIRST AMENDMENT TO THE SOLTERRA PUBLIC IMPROVEMENT DISTRICT REIMBURSEMENT AGREEMENT (IMPROVEMENT AREA C-3).

WHEREAS, on April 5, 2021, the City Council of the City of Mesquite, Texas (the “**City**”), passed and approved a resolution amending and restating the resolution creating the Solterra Public Improvement District (the “**District**”) covering approximately 1,424.398 acres of land described by metes and bounds in said Resolution (the “**District Property**”); and

WHEREAS, the purpose of the District is to finance public improvements (the “**Authorized Improvements**”) as provided by Chapter 372, Texas Local Government Code, as amended (the “**PID Act**”) that promote the interests of the City and confer a special benefit on the Assessed Property within the District; and

WHEREAS, the District Property is being developed in accordance with that certain “Solterra Development Agreement,” executed by and between the developer of the District Property and the City effective October 19, 2020, that “First Amendment to Development Agreement” effective March 15, 2021, and that “Second Amendment to the Development Agreement” effective February 20, 2023 (together, the “**Development Agreement**”); and

WHEREAS, the District Property is being developed in improvement areas or phases, and special assessments for each improvement area or phase will be levied against the properties within such improvement area or phase to pay the costs of certain public improvements that confer a special benefit on the property within such improvement area or phase; and

WHEREAS, HC Solterra, LLC, a Texas limited liability company (the “**Developer**”), is the developer of the District Property; and

WHEREAS, the City Council has passed and approved an ordinance dated July 17, 2023 (the “**Assessment Ordinance**”), which, among other things, approved a service and assessment plan (the “**SAP**”) that levied assessments on assessable property in Improvement Area C-3 pursuant to that certain Solterra Public Improvement District Reimbursement Agreement (Improvement Area C-3) dated July 17, 2023, by and between the Developer and the City (the “**Original Reimbursement Agreement**”); and

WHEREAS, from revenues received from the assessments levied on property within Improvement Area C-3, the City intends to reimburse the Developer for all or a portion of the costs of the Improvement Area C-3 Projects pursuant to and in the manner set forth in the Original Reimbursement Agreement; and

WHEREAS, the City and the Developer wish to enter into an amendment to the Original Reimbursement Agreement (the “**First Amendment**” and the First Amendment together with the Original Reimbursement Agreement, the “**Reimbursement Agreement**”) to amend certain provisions of the Original Reimbursement Agreement to revise certain statutory verifications and representations along with other changes.

Finance / First Amendment to Solterra PID Reimbursement Agreement

October 7, 2024

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

SECTION 1. The capitalized terms defined in the recitals to this Resolution are hereby approved and adopted as a part of this Resolution. Capitalized terms not herein defined are defined in the Reimbursement Agreement or in the SAP.

SECTION 2. The City Council hereby approves the First Amendment in substantially the form attached hereto as Exhibit A, with such changes as may be approved by the City Manager, and authorizes the Mayor or City Manager to execute and the City Secretary to attest such Agreement.

SECTION 3. This Resolution shall take effect immediately from and after its passage.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 7th day of October 2024.

DocuSigned by:
Daniel Aleman Jr.
D999585317D142B...

Daniel Alemán, Jr.
Mayor

ATTEST:

DocuSigned by:
Sonja Land
C2518095973F46A...

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:

DocuSigned by:
David L. Paschall
666E18891208434...

David L. Paschall
City Attorney

EXHIBIT A

FIRST AMENDMENT TO

THE SOLTERRA PUBLIC IMPROVEMENT DISTRICT

REIMBURSEMENT AGREEMENT (IMPROVEMENT AREA C-3)

**FIRST AMENDMENT TO SOLTERRA PUBLIC IMPROVEMENT DISTRICT
REIMBURSEMENT AGREEMENT
(IMPROVEMENT AREA C-3)**

This First Amendment to Solterra Public Improvement District Reimbursement Agreement (Improvement Area C-3) dated October 7, 2024 (the "Effective Date"), is entered into between HC Solterra, LLC, a Texas limited liability company (the "Developer"), and the City of Mesquite, Texas (the "City"), a home-rule city and municipal corporation, acting by and through its duly authorized representative.

Recitals:

WHEREAS, the City and the Developer entered into that certain Solterra Public Improvement District Reimbursement Agreement (Improvement Area C-3) dated July 17, 2023 (the "Original Agreement") (the "Amendment"); and

WHEREAS, all capitalized terms used in this Amendment shall be defined as stated in the Agreement unless otherwise defined in this Amendment; and

WHEREAS, the Parties desire to add and amend certain provisions in the Agreement update certain statutory representations and other provisions; and

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

1. Defined Terms. Capitalized terms not otherwise defined in this Amendment shall have the meanings set forth in the Agreement.
2. Sections 33-37 of the Original Agreement are hereby deleted and replaced in their entirety with a new number 33 as follows:

33. Statutory Verifications. The Developer makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Reimbursement Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Reimbursement Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Reimbursement Agreement, notwithstanding anything in this Reimbursement Agreement to the contrary.

- (i) *Not a Sanctioned Company.* The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.
- (ii) *No Boycott of Israel.* The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Reimbursement Agreement. As used in the foregoing verification, “boycott Israel” has the meaning provided in Section 2271.001, Government Code.
- (iii) *No Discrimination Against Firearm Entities.* The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Reimbursement Agreement. As used in the foregoing verification, “discriminate against a firearm entity or firearm trade association” has the meaning provided in Section 2274.001(3), Government Code.
- (iv) *No Boycott of Energy Companies.* The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Reimbursement Agreement. As used in the foregoing verification, “boycott energy companies” has the meaning provided in Section 2276.001(1), Government Code.

3. New Sections 34, 35 and 36 are hereby added to the Original Agreement as set forth below, and Section 38 is renumbered to section 37.

34. Choice of Law. This Agreement shall be governed by the laws of the State of Texas.

35. Out of State Issuer. This Agreement may not be assigned to an out-of-state issuer of debt and the City shall not participate in any third-party financing relating to the Assessment Revenues received by the Developer pursuant to this Agreement.

36. Standing Letter. If requested by the Texas Attorney General, the Developer will file a standing letter addressing the representations made in Section 33 of this Agreement in a form acceptable to the Texas Attorney General.
4. Ratification. The Parties acknowledge and agree that, except as amended herein, the Agreement is in full force and effect and is hereby ratified and confirmed. Notwithstanding the foregoing, in the event there is any conflict between the terms and provisions of the Agreement and this Amendment, the terms and provisions of this Amendment shall control.
5. Severability. In case any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Amendment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
6. Counterparts. This Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.
7. Amendments. This Amendment may only be amended by a written agreement executed by both Parties.
8. Assignment. Developer may assign any right, title, interest or obligation under this Amendment in whole or in part in accordance with the Original Agreement.
9. Entire Agreement. This Amendment contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the Parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. EXECUTION PAGES FOLLOW.]

Executed by the City and the Developer to be effective on the Effective Date.

CITY OF MESQUITE

By: _____
Name: _____
Title: City Manager

ATTEST:

City Secretary

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____, 2024 by _____, City Manager of the City of Mesquite, a home rule municipality, on behalf of said municipality.

Notary Public, State of Texas

[SIGNATURES CONTINUE ON NEXT PAGE]

Developer:

HC Solterra, LLC,
a Texas limited liability company

By: _____
Phillip Huffines, Managing Director
or
Donald Huffines, Managing Director

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the _____ day of _____,
2024 by _____, Managing Director of HC Solterra, LLC, a Texas limited
liability company, on behalf of said company.

Notary Public, State of Texas