

RESOLUTION NO. 47-2024

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE LOCAL ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE A FIRST AMENDMENT TO TIRZ NO. 14 REIMBURSEMENT AGREEMENT AND CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT FOR SUCH PURPOSES WITH 42 ALCOTT, LP (THE “DEVELOPER”), AND THE BOARD OF DIRECTORS OF REINVESTMENT ZONE NO. 14, CITY OF MESQUITE, TEXAS (“ALCOTT STATION”), REGARDING: (I) THE DEVELOPER’S CONSTRUCTION OF A CLASS A INDUSTRIAL BUILDING LOCATED AT 3301 EAST GLEN BOULEVARD AND 3300 EAST GLEN BOULEVARD, MESQUITE, TEXAS, (COLLECTIVELY THE “PROPERTY”); (II) THE ACQUISITION FROM THE CITY AND BY THE DEVELOPER OF APPROXIMATELY 1.72 ACRES OF LAND CURRENTLY DIVIDING THE PROPERTY; AND (III) THE GRANTING TO DEVELOPER OF CERTAIN TIRZ REIMBURSEMENTS AND ECONOMIC DEVELOPMENT INCENTIVES; AND AUTHORIZING THE CITY MANAGER TO TAKE SUCH ACTIONS AND EXECUTE SUCH DOCUMENTS AS ARE NECESSARY OR ADVISABLE TO CONSUMMATE THE TRANSACTIONS CONTEMPLATED BY THE FIRST AMENDMENT, AND ADMINISTER THE FIRST AMENDMENT ON BEHALF OF THE CITY.

**WHEREAS**, Chapter 380 of the Texas Local Government Code authorizes the City of Mesquite, Texas (“**City**”), and other municipalities to establish and provide for the administration of programs that promote local economic development and stimulate business and commercial activity; and

**WHEREAS**, on April 5, 2021, by City Ordinance No. 4853 (“**Ordinance No. 4853**”), the City created Reinvestment Zone Number Fourteen, City of Mesquite, Texas (Alcott Logistics Station), a tax increment reinvestment zone created pursuant to Chapter 311 of the Texas Tax Code (“**Act**”) consisting of approximately 251.8175 acres of land (“**Zone**”) generally located south of East Scyene Road, west of the Mesquite Metro Airport, north of Berry Road and Newsom Road, and east of Smokey Mountain Trail, being within the corporate limits of the City of Mesquite, Dallas County, Texas, and being more particularly described in Ordinance No. 4853 (“**TIRZ**”); and

Eco Dev / 42 Alcott, LP / First Amendment to TIRZ No.14 Reimbursement Agreement and 380 Agreement / October 21, 2024  
Page 2 of 4

**WHEREAS**, by City Ordinance No. 4853, the City established a Board of Directors for the TIRZ (“**TIRZ Board**”); and

**WHEREAS**, the City created the Zone to promote development or redevelopment in the Zone, in accordance with the Act; and

**WHEREAS**, on May 3, 2021, the TIRZ Board approved a project plan and reinvestment zone financing plan for the TIRZ and recommended approval of such project plan and reinvestment zone financing plan to the City Council for approval; and

**WHEREAS**, on May 3, 2021, by City Ordinance No. 4857, the City Council approved a project plan and reinvestment zone financing plan for the TIRZ (such project plan and reinvestment zone financing plan, as hereafter amended, being hereinafter referred to as the “**TIRZ Project and Financing Plan**”); and

**WHEREAS**, on December 6, 2021, by City Resolution No. 84-2021, the City Council approved a TIRZ No. 14 Reimbursement Agreement and City Chapter 380 Incentive and Performance Agreement (“**Agreement**”) between the City, TIRZ Board, and 42 Alcott, LP (“**Developer**”); and

**WHEREAS**, the City Council has been presented with the proposed First Amendment to the Agreement, attached hereto as Exhibit A and incorporated herein by reference, which proposes to extend the Developer’s deadlines by three (3) years, more particularly to: (i) extend the deadline for the Developer to Commence Construction of the Facility and Other Improvements from July 31, 2024, to July 31, 2027; (ii) extend the deadline for the Developer to Complete Construction of the Facility and Other Improvements from July 31, 2027, to July 31, 2030; and (iii) extend the deadline for the Developer to complete the East Glen Removal Project from July 31, 2024, to July 31, 2027; and

**WHEREAS**, after holding a public hearing and upon full review and consideration of the Agreement and all matters attendant and related thereto, the City Council is of the opinion that: (i) the Agreement and First Amendment will assist in implementing a program whereby state and local economic development will be promoted, and business and commercial activity will be stimulated in the City; (ii) the conveyance of the 1.72-acres of East Glen Boulevard right-of-way to the Developer under the terms and subject to the conditions set forth in the Agreement and First Amendment is in the best interest of the City and will benefit the City and its citizens; and (iii) the economic development incentives set forth in the Agreement and First Amendment are 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.** The facts, findings, and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct and are incorporated and adopted as part of this resolution for all purposes.

Eco Dev / 42 Alcott, LP / First Amendment to TIRZ No.14 Reimbursement Agreement and 380 Agreement / October 21, 2024  
Page 3 of 4

**SECTION 2.** The City Council finds that the First Amendment is in the best interest of the City and TIRZ, will benefit the City, TIRZ, and its citizens, and will accomplish the public purpose of promoting local economic development and stimulating business and commercial activity in the City and TIRZ.

**SECTION 3.** The terms and conditions of the First Amendment, having been reviewed by the City Council and found to be acceptable and in the best interest of the City, its citizens, and the TIRZ are hereby approved.

**SECTION 4.** The City Manager is hereby authorized to: (i) finalize and execute the First Amendment; and (ii) take such actions and execute such documents as are necessary or advisable to consummate the transactions contemplated by the First Amendment.

**SECTION 5.** The City Manager is further hereby authorized to administer the First Amendment and Agreement on behalf of the City including, without limitation, the City Manager shall have the authority to: (i) provide any notices required or permitted by the First Amendment and Agreement; (ii) approve amendments to the First Amendment and Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the First Amendment and Agreement in excess of \$100,000; (iii) approve or deny any matter in the First Amendment and Agreement that requires the consent of the City provided, however, notwithstanding the foregoing, any assignment of the First Amendment that requires the consent of the City pursuant to the terms of the First Amendment or Agreement shall require the approval of the City Council; (iv) approve or deny the waiver of performance of any covenant, duty, agreement, term or condition of the First Amendment or Agreement; (v) exercise any rights and remedies available to the City under the First Amendment or Agreement; and (vi) execute any notices, amendments, approvals, consents, denials and waivers authorized by this Section 5 provided, however, notwithstanding anything contained herein to the contrary, the authority of the City Manager pursuant to this Section 5 shall not include the authority to take any action that cannot be delegated by the City Council or that is within the City Council's legislative functions.

**SECTION 6.** The sections, paragraphs, sentences, clauses, and phrases of this Resolution are severable and, if any phrase, clause, sentence, paragraph, or section of this Resolution should be declared invalid, illegal, or unenforceable by the final judgment or decree of any court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the validity, legality, or enforceability of any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Resolution and such remaining provisions shall remain in full force and effect and shall be construed and enforced as if the invalid, illegal, or unenforceable provision had never been included in this Resolution.

Eco Dev / 42 Alcott, LP / First Amendment to TIRZ No.14 Reimbursement Agreement and 380 Agreement / October 21, 2024  
Page 4 of 4

**DULY RESOLVED** by the City Council of the City of Mesquite, Texas, on the 21st 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

**FIRST AMENDMENT TO TIRZ NO. 14 REIMBURSEMENT AGREEMENT  
AND  
ECONOMIC DEVELOPMENT PROGRAM CHAPTER 380 AGREEMENT  
BETWEEN  
THE CITY OF MESQUITE, TEXAS,  
42 ALCOTT, LP, AND  
THE BOARD OF DIRECTORS FO REINVESTMENT ZONE NO. 14, CITY OF  
MESQUITE, TEXAS**

This First Amendment to TIRZ No. 14 Reimbursement Agreement and Economic Development Program Chapter 380 Agreement (“**First Amendment**”) is made by and among the City of Mesquite, Texas (“**City**”), Board of Directors of Reinvestment Zone Number Fourteen, City of Mesquite, Texas (“**Board**”), and 42 Alcott, LP, a Texas limited partnership (“**Developer**”) (each a “**Party**” and collectively the “**Parties**”), acting by and through their respective authorized representatives.

**W I T N E S S E T H:**

**WHEREAS**, the Parties entered into that certain TIRZ No. 14 Reimbursement Agreement and Economic Development Program Chapter 380 Agreement with an effective date of December 6, 2021 (“**Development Agreement**”), concerning a Chapter 380 Grant and a TIRZ Reimbursement for Drainage Improvements and Easement Improvements; and

**WHEREAS**, the Developer has requested, and the City and Board agree, to modify the deadlines for Developer to Commence Construction of the Facility and Other Improvements, for Completion of Construction of the Facility and Other Improvements, and to Complete the East Glen Removal Project.

**NOW THEREFORE**, for and in consideration of these premises and of the mutual promises, obligations, covenants and benefits herein contained, the Parties contract and agree to amend the Development Agreement as follows:

1. **Capitalized Terms**. All capitalized terms in this First Amendment, not otherwise defined herein, shall have the same meanings as assigned to the terms in the Development Agreement.
2. **Amendments**. The Development Agreement is hereby amended as follows:
  - a. **Section 3.1(a)(i)**. Section 3.1(a)(i) is replaced in its entirety to read as follows:

“**Developer’s Construction Deadlines**. Developer shall design and construct, or cause the design and construction of, the Facility, the Drainage Improvements, the Easement Improvements, and the Other Improvements in accordance with this Agreement. Developer shall cause Commencement of Construction of the Facility and the Other Improvements to occur no later than July 31, 2027. Developer shall cause Completion of Construction of the Facility and the Other Improvements by July 31, 2030. Developer shall complete construction of the Drainage Improvements no later than August 1, 2022. Developer shall complete construction

of the Easement Improvements no later than July 31, 2027. Developer also shall complete the East Glen Removal Project no later than July 31, 2027. Developer acknowledges and agrees that the City shall not issue any type of certificate of occupancy for the Facility until the East Glen Removal Project, Drainage Improvements and Easement Improvements have been completed.”

- b. Section 3.2. The first sentence of Section 3.2 is replaced in its entirety to read as follows:

“Former East Glen Blvd. The Developer, at its sole cost and expense, shall complete the East Glen Removal Project no later than July 31, 2027.”

- c. Section 3.3(a). The first sentence of Section 3.3(a) is replaced in its entirety to read as follows:

“Amount of 380 Grant. Assuming Developer’s timely completion and compliance with all of Developer’s obligations set forth in Sections 3.1(a) through (e) above and Section 3.2 above, the City will provide an economic development incentive to Developer in an amount equal to one-hundred percent (100%) of the City’s Roadway Impact Fees actually collected for the Facility prior to July 31, 2027 (the “380 Grant”).”

3. **Ratification of Development Agreement.** Except as provided herein, all terms and provisions of the Development Agreement and the rights of the Parties thereunder shall remain unchanged and in full force and effect. The Development Agreement, as modified and amended hereby, is hereby ratified, and confirmed in all respects. In the event of a conflict between the terms of the Development Agreement and the terms hereof, the terms of this First Amendment shall control. From and after the date hereof, all references to the Development Agreement shall be deemed references thereto as amended hereby.

4. **Interpretation.** The Parties acknowledge that each of them has been actively involved in negotiating this First Amendment. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not apply to interpreting this First Amendment. In the event of any dispute over the meaning or application of any provision of this First Amendment, the provision will be interpreted fairly and reasonably and neither more strongly for nor against any Party, regardless of which Party originally drafted the provision.

5. **Enforceability.** Each Party acknowledges and agrees that this First Amendment is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

6. **Merger.** This First Amendment together with the Development 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 Development Agreement.

6. **Counterparts.** This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to be effective as of the Effective Date. This First Amendment shall be filed in the land records of the county.

[SIGNATURE PAGES IMMEDIATELY FOLLOW THIS PAGE]

**CITY:**

City of Mesquite, Texas

**ATTEST:**

\_\_\_\_\_  
Name: Sonja Land  
Title: City Secretary

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

**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
Name: David L. Paschall  
Title: City Attorney

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me on \_\_\_\_\_, 2024, by Cliff Keheley, City Manager of the City of Mesquite, Texas, a Texas home rule municipality, on behalf of said home rule municipality.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

My Commission Expires: \_\_\_\_\_

Notary Seal



**BOARD:**

Board of Directors of Reinvestment Zone  
Number Fourteen, City of Mesquite, Texas

**ATTEST:**

\_\_\_\_\_  
Name: Sonja Land  
Title: City Secretary

By: \_\_\_\_\_  
Name: Daniel Alemán, Jr  
Title: Chairman

**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
Name: David L. Paschall  
Title: City Attorney

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me on \_\_\_\_\_, 2024, by Daniel Alemán, Jr, Reinvestment Zone Number Fourteen, City of Mesquite, Texas, Board Chairman, on behalf of said Board.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

My Commission Expires: \_\_\_\_\_

Notary Seal

**DEVELOPER:**

42 ALCOTT, LP, a Texas limited partnership

By: 42 C 2021, LLC, a Texas limited liability company, its General Partner

By: \_\_\_\_\_  
Name: Scott Rohrman  
Title: Manager

STATE OF TEXAS           §  
                                          §  
COUNTY OF DALLAS       §

This instrument was acknowledged before me on \_\_\_\_\_, 2024, by Scott Rohrman, as the Manager of 42 C 2021, LLC, General Partner of 42 Alcott, LP, on behalf of said limited partnership.

\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

My Commission Expires: \_\_\_\_\_

Notary Seal