

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, REPEALING RESOLUTION NO. 44-2019; APPROVING THE TERMS AND CONDITIONS OF A PROGRAM TO PROMOTE LOCAL ECONOMIC DEVELOPMENT AND STIMULATE BUSINESS AND COMMERCIAL ACTIVITY IN THE CITY; AUTHORIZING THE SALE BY THE CITY OF MESQUITE, TEXAS (THE "CITY"), OF AN APPROXIMATELY 5.315 ACRE TRACT OF CITY-OWNED PROPERTY LOCATED WITHIN THE MESQUITE RODEO CITY REINVESTMENT ZONE NUMBER ONE, CITY OF MESQUITE, TEXAS (THE "CITY TRACT"), TO MM MESQUITE 50, LLC, A TEXAS LIMITED LIABILITY COMPANY (THE "DEVELOPER"); AUTHORIZING THE CITY MANAGER TO NEGOTIATE, FINALIZE AND EXECUTE A CONTRACT OF SALE, DEED AND ALL OTHER DOCUMENTS NECESSARY OR ADVISABLE TO COMPLETE THE SALE OF THE CITY TRACT TO THE DEVELOPER; PROVIDING A GRANT TO THE DEVELOPER IN THE AMOUNT OF THE PURCHASE PRICE OF THE CITY TRACT, THE CITY TRACT TO BE DEVELOPED AS PART OF A MIXED USE DEVELOPMENT CONTAINING RETAIL, RESTAURANT, OFFICE, RESIDENTIAL COMPONENTS AND OTHER ASSOCIATED USES IN ACCORDANCE WITH CITY ORDINANCE NO. 4595 (THE "IRON HORSE PROJECT") IN THE CITY OF MESQUITE, TEXAS; AND AUTHORIZING THE CITY MANAGER TO ADMINISTER THE AGREEMENT ON BEHALF OF THE CITY.

WHEREAS, the City of Mesquite, Texas ("City"), and MM Mesquite 50, LLC, a Texas limited liability company (the "Developer"), have executed that certain Iron Horse Development Agreement dated November 19, 2018, as amended by that certain First Amendment to Iron Horse Development Agreement between the City and the Developer dated effective March 18, 2019 and by that certain Second Amendment to Iron Horse Development Agreement between the City and the Developer dated effective May 20, 2019, said agreement, as now and hereafter amended, being hereinafter collectively referred to as the "Iron Horse Development Agreement," for the design, development and construction of a mixed use development containing retail, restaurant, office, residential components and other associated uses in accordance with City Ordinance No. 4595 (the "Iron Horse Project"); and

WHEREAS, the City owns an approximately 5.315 acre tract of land within the Mesquite Rodeo City Reinvestment Zone Number One, City of Mesquite, Texas, and being more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes (the "City Tract"); and

WHEREAS, the Iron Horse Development Agreement contemplates that the City Tract will be purchased by the Developer for \$926,100.00, which is the fair market value of the City Tract, in accordance with Section 272.001(b)(6) of the Texas Local Government Code, and developed as part of the Iron Horse Project; and

WHEREAS, Chapter 380 of the Texas Local Government Code authorizes the 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 June 3, 2019, the City Council of the City (the "City Council") was presented with a proposed agreement providing economic development incentives (the "Draft Agreement") to the Developer in the form of a grant to the Developer in the amount of \$926,100.00 to purchase the City Tract (the "Grant"), and, following a public hearing, approved the Draft Agreement by Resolution No. 44-2019; and

WHEREAS, the Grant to the Developer will incentivize the development of the Iron Horse Project; and

WHEREAS, the City Council has determined that the sale of the City Tract to the Developer and the Grant to the Developer is in the public interest of the City and its citizens; and

WHEREAS, additional revisions were made to the Draft Agreement necessitating further review and consideration by the City Council; a copy of the revised document retaining provisions for the purchase of the City Tract by the Developer and providing the Grant to the Developer being attached as Exhibit "A" and incorporated herein by reference (the "Final Agreement"); and

WHEREAS, after holding a public hearing and upon full review and consideration of the Final Agreement and all matters attendant and related thereto, the City Council is of the opinion that the Final Agreement is in the best interest of the City and will benefit the City and its citizens, and will assist in implementing a program whereby local economic development will be promoted, and business and commercial activity will be stimulated in the City.

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

SECTION 1. The City Council hereby repeals Resolution No. 44-2019, finds that the terms and conditions of the Final Agreement including the Grant, having been reviewed by the City Council and a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, is in the best interest of and will benefit the City and its citizens and will accomplish the public purpose of promoting local economic development and stimulating business and commercial activity in the City in accordance with Section 380.001 of the Texas Local Government Code, finds the Final Agreement is acceptable and hereby approves the Final Agreement.

SECTION 2. The City Council hereby approves the sale of the City Tract to the Developer for the purchase price of \$926,100.00, and hereby authorizes the City Manager to negotiate, finalize and execute a contract of sale, deed and all other documents necessary or advisable to complete the sale of the City Tract to the Developer.

SECTION 3. The City Council hereby adopts an economic development program whereby, subject to the terms and conditions of the Final Agreement, the City will provide economic development incentives to the Developer and take other specified actions as more fully set forth in the Final Agreement in accordance with the terms and subject to the conditions outlined in the Final Agreement.

SECTION 4. The City Manager is hereby authorized to negotiate, finalize and execute the Final Agreement and all other documents necessary to consummate the transactions contemplated by the Final Agreement and is further hereby authorized to administer the Final 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 Final Agreement; (ii) approve amendments to the Final Agreement provided such amendments, together with all previous amendments approved by the City Manager, do not increase City expenditures under the Final Agreement in excess of \$50,000; (iii) approve or deny any matter in the Final Agreement that requires the consent of the City provided, however, notwithstanding the foregoing, any assignment of the Final Agreement that requires the consent of the City pursuant to the terms of the Final 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 Final Agreement; (v) exercise any rights and remedies available to the City under the Final Agreement; and (vi) execute any notices, amendments, approvals, consents, denials and waivers authorized by this Section 4 provided, however, notwithstanding anything contained herein to the contrary, the authority of the City Manager pursuant to this Section 4 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 5. 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.


DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 15th day of July 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT “A”

**Chapter 380 Agreement between
The City of Mesquite and MM Mesquite 50, LLC**

(to be attached)