

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A THIRD AMENDMENT TO A DEVELOPMENT AGREEMENT WITH MHA III, LLC, CONCERNING THE DEVELOPMENT OF A MARKET-RATE RESIDENTIAL APARTMENT PROJECT AT THE SOUTHEAST CORNER OF 1ST AVENUE AND MACDONALD.

WHEREAS, MHA III, LLC, an Arizona limited liability company (“Developer”) and City are parties to that certain Amended and Restated Development Agreement as amended by that certain First Amendment to Amended and Restated Development Agreement and Second Amendment to Amended and Restated Development Agreement (collectively, the “Development Agreement”). Developer and City also are parties to that certain Purchase and Sale Agreement and Escrow Instructions as amended by that certain Addendum to Purchase and Sale Agreement and Escrow Instructions (collectively, the “Purchase and Sale Agreement”). The Development Agreement and Purchase and Sale Agreement related to the development of what is referred to as the First Market Rate Project (which Developer completed) and the Second Market Rate Project (which is the subject of this Resolution) for property located at the southeast corner of 1st Avenue and Macdonald and as legally described in these agreements (the “Property”). The term “Property” hereinafter refers to the property related to the Second Market Rate Project.

WHEREAS, Developer timely elected to purchase the Property at the market rate price pursuant to the Development Agreement and Purchase and Sale Agreement, by depositing earnest money in escrow, and this election triggered Developer’s obligation to develop the Second Market Rate Project on the Property.

WHEREAS, Developer desires and City is willing to enter into a Third Amendment to the Development Agreement (the “Third Amendment”), that, *inter alia*, amends a date related to the completion of construction of the Second Market Rate Project.

WHEREAS, the City Council hereby determines it is appropriate to enter into the Third Amendment and other agreements and documents as contemplated therein.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: The City Council approves the Third Amendment, authorizes the other agreements, documents, and amendments as contemplated therein, and authorizes the execution of future documents and agreements as necessary to carry out the provisions of Third Amendment. The City Manager, or his designee, is authorized to execute the Third Amendment. Additionally, the City Manager is authorized to approve and may agree to and enter into, and make, amendments and modifications to the Third Amendment as necessary to carry out the intent of the Development Agreement and the Project agreements or that are necessary to facilitate the development of the Project and do not materially alter the terms of the Development Agreement and the Project agreements.

Section 2: That the City Clerk is authorized and directed to attest to the signature of the City Manager, or his designee, on all such documents.

PASSED AND ADOPTED by the Council of the City of Mesa, Maricopa County, Arizona this 4th day of November, 2019.

APPROVED:

Mayor

ATTEST:

City Clerk