

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO THE FIRST AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND A SECOND ADDENDUM TO PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS WITH MHA III, LLC RELATED TO THE SALE AND DEVELOPMENT OF PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF 1ST AVENUE AND MACDONALD.

WHEREAS, the City and MHA III, LLC (“Developer”) are parties to a Development Agreement and Purchase and Sale Agreement and Escrow Instructions for property generally located at the southeast corner of 1st Avenue and MacDonald; and on December 19, 2016, City and Developer amended these agreements by entering that certain Amended and Restated Development Agreement (the “Development Agreement”) that restates and replaces the prior development agreement and an Addendum to Purchase and Sale Agreement and Escrow Instruction (as amended, the “Purchase and Sale Agreement”), for certain real property described therein (the “Property”).

WHEREAS, Developer deposited earnest money to purchase and develop the Property under the Market Rate Purchase provisions of the Purchase and Sale Agreement and Development Agreement to allow for the sale and development of the Property for market rate apartments.

WHEREAS, City and Developer desire to amend the agreements by entering into a First Amendment to Amended and Restated Development Agreement and a Second Addendum to Purchase and Sale Agreement and Escrow Instructions (collectively, the “Amendments”) that, *inter alia*, provide for the sale and development of the Property as a market rate apartment complex with at least 72 units in three, three-story buildings and further provides for the sale of up to 9,100 square feet (approximately 45 feet by 202 feet) of additional property on the southern edge of the Property as depicted in the attached Exhibit 1 (the “Additional Property”).

WHEREAS, City agrees to sell the Additional Property (with the Property) under the terms and conditions in the Amendments including Developer’s agreement to construct the Additional Amenities as defined therein.

WHEREAS, the City Council has already authorized the sale of the Property and made findings and determinations (including findings and determinations as to the development of market rate housing in downtown Mesa) in Resolution Nos. 10753 and 10906 for the sale and development of the Property, which are equally applicable to these Amendments and the Additional Property, and that are hereby incorporated herein.

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

Section 1: That the City Manager, or his designee, is authorized and directed to enter into the Amendments, together with all other documents necessary to carry out the provisions of the agreements, and authorizing the sale of the Property and Additional Property under the terms of the agreements as amended by the Amendments. The City Manager may make modifications to the terms set forth in the Amendments so long as such modifications do not materially alter the terms.

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 18th day of June, 2018.

APPROVED:

Mayor

ATTEST:

City Clerk

EXHIBIT 1

(Depiction of Additional Property)

