

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A SECOND AMENDMENT TO THE LEASE AGREEMENT WITH OPTION TO PURCHASE WITH BENEDICTINE UNIVERSITY, AN ILLINOIS NOT-FOR-PROFIT CORPORATION FOR CITY-OWNED PROPERTY GENERALLY LOCATED AT 225 E. MAIN STREET, MESA, ARIZONA.

WHEREAS, the City and Benedictine University entered into that certain Lease Agreement with Option to Purchase effective November 5, 2012 and a First Amendment to the Lease Agreement with Option to Purchase dated April 17, 2017 (the "Lease Agreement") for real property, including parking lots, and improvements at what is commonly known as 225 E. Main Street, Mesa, Arizona (APNs: 138-65-015 and 138-65-016) and a parking lot adjacent to the same (APN 138-65-006E, or "the Adjacent Parking Lot").

WHEREAS, in order to facilitate the development of a mixed-use development on the Adjacent Parking Lot, Benedictine University is willing to release its leasehold interest and Purchase Option for the Adjacent Parking Lot if Landlord enters into a development agreement for such a development, and in exchange the City will provide pursuant to a Parking License 45 covered parking spaces in the Pomeroy Garage at no charge, subject to certain terms and conditions provided in the Second Amendment and Parking License.

WHEREAS, if the construction of the mixed-use development does not proceed, Benedictine University desires to have the option, and City is willing to grant the option, to restore the leasehold interest and purchase option for the Adjacent Parking Lot back to Benedictine University, subject to certain terms and conditions provided in the Second Amendment (the "Restoration of Leasehold Interest and Purchase Option").

WHEREAS, the City Council hereby determines it is appropriate to enter into the Second Amendment to the Lease Agreement with Option to Purchase (the "Second Amendment") under the terms and conditions set forth in the Second Amendment; and to enter into the Parking License, which may have certain terms still to be agreed upon by the parties, and the City Manager may enter into the Parking License as to be agreed upon by the parties

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

Section 1: The City Manager, or his designee, is authorized to enter into the Second Amendment and other agreements and amendments as contemplated therein, including, but not limited to, the Parking License and all documents and amendments for the Restoration of Leasehold Interest and Purchase Option, if applicable. The City Manager may agree to, and enter into, amendments and modifications to the Second Amendment so long as such modifications do not materially alter the terms of the Second Amendment.

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 20th day of November, 2017.

APPROVED:

Mayor

ATTEST:

City Clerk