

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESERT HOT SPRINGS, CALIFORNIA, APPROVING THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF DESERT HOT SPRINGS AND MERJ, LLC**

**WHEREAS**, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Section 65864 et seq. of the California Government Code (the "Development Agreement Statute"); and

**WHEREAS**, the Development Agreement Statute authorizes the City to enter into a property development agreement with any person having legal or equitable interest in real property for the development of such property in order to establish certain development rights; and

**WHEREAS**, the development agreement and associated entitlements are subject to CEQA and CEQA review was completed; and

**WHEREAS**, City of Desert Hot Springs Planning Commission ("Planning Commission") conducted a properly noticed public hearing to consider the Development Agreement (as defined below), at which testimony and evidence, both written and oral, were presented to and considered by the Planning Commission; and

**WHEREAS**, the City Council shall approve a development agreement by ordinance; and

**WHEREAS**, on November 1, 2016, subsequent to receipt of the recommendation of the Planning Commission, the City Council conducted a properly noticed public hearing to consider the Development Agreement, at which testimony and evidence, both written and oral, were presented to and considered by the City Council.

**NOW THEREFORFE, THE CITY COUNCIL OF THE CTIY OF DESERT HOT SPRINGS DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS**

That the above Recitals are true and correct and are incorporated as though fully set forth herein.

## **SECTION 2: APPROVAL OF DEVELOPMENT AGREEMENT**

That the City Council hereby approves the Development Agreement By and Between the City of Desert Hot Springs and MERJ, LLC, a limited liability corporation ("Development Agreement"), a copy of which is attached hereto and incorporated herein by this reference as Exhibit "A," subject to the terms and conditions stated therein.

## **SECTION 3. SEVERABILITY**

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

## **SECTION 4: EFFECTIVE DATE OF ORDINANCE**

That this Ordinance shall take effect thirty (30) days after its second reading by the City Council.

## **SECTION 5: EFFECTIVE DATE OF DEVELOPMENT AGREEMENT**

The Development Agreement shall not be executed by the City until on or after the effective date of the Ordinance.

## **SECTION 6: RECORDATION OF DEVELOPMENT AGREEMENT**

That the City Clerk is hereby directed to record the fully executed Development Agreement with the Riverside County Recorder no later than ten (10) days after its execution.

## **SECTION 7: CERTIFICATION**

That the City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published according to law.

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**PASSED AND ADOPTED THIS** \_\_ day of \_\_\_\_\_, 2016.

CITY OF DESERT HOT SPRINGS

\_\_\_\_\_  
Scott Matas, Mayor

ATTEST:

\_\_\_\_\_  
Jerryl Soriano  
City Clerk

APPROVED AS TO FORM:  
Jennifer Mizrahi, City Attorney

\_\_\_\_\_  
By/Title:

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**EXHIBIT “A”**

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF DESERT HOT SPRINGS  
AND MERJ, LLC**

**SEE ATTACHED**