

RECORDING REQUESTED BY:

City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

WHEN RECORDED, MAIL TO:

City of Fresno
2600 Fresno Street
Fresno, CA 93721
Attention: City Manager



(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT

by and between

CITY OF FRESNO,
a municipal corporation

and

METRO HOSPITALITY SERVICES, INC.

M and Inyo Streets
Hilton or Marriot
Fresno, California 93721

**FIRST AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT (Amendment) is entered as of _____, 2022 (Effective Date), between the CITY OF FRESNO, a municipal corporation, (City) and METRO HOSPITALITY SERVICES, INC. (Developer).

RECITALS

A. WHEREAS, the parties entered into a Disposition and Development Agreement (the Agreement) effective December 18, 2017, and recorded on December 21, 2017, as Document Number 2017-0164954 in the Office of the Fresno County Recorder; and

B. WHEREAS, the Agreement set forth terms and conditions for Developer to purchase the Property from the City and develop it privately as a Hilton or Marriot multi-story hotel with 200 rooms; and

C. WHEREAS, the parties wish to amend the terms of the Agreement to extend certain deadlines in the performance schedule and revise the number of hotel rooms.

NOW, THEREFORE, BE IT RESOLVED, that the parties hereby amend the terms of the Agreement as follows:

1. All references in the Agreement regarding a 200-room hotel shall be changed to reflect a 144-room hotel.

2. The Performance Schedule (Exhibit C attached to the Agreement) is hereby deleted in its entirety and replaced with the "Revised Exhibit C –Amendment" attached to this Amendment.

3. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the Agreement.

4. Except as expressly set forth herein, the terms and conditions of the Agreement shall remain in full force and effect.

5. In the event of a conflict between this Amendment and the Agreement, the terms of this Amendment shall control.

6. In the event this Amendment is not executed by the Developer and delivered to City within ten days of City Council approval, this Amendment shall be null and void.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, City and Developer have signed this Amendment effective as of the date first above written.

CITY OF FRESNO,
a municipal corporation

METRO HOSPITALITY SERVICES, INC.

By: _____
Georgeanne White,
City Manager

By: _____
Tehal Thandi,
President and Secretary

(Attach notary certificate of acknowledgment)

(Attach notary certificate of acknowledgment)

APPROVED AS TO FORM:
Douglas T. Sloan
City Attorney

By: _____
Tracy N. Parvanian Date
Senior Deputy City Attorney

ATTEST:
TODD STERMER, CMC
City Clerk

By: _____
Deputy

Attachment:
Revised Exhibit "C" Amendment – Performance Schedule effective
March 10, 2022

REVISED EXHIBIT “C” –AMENDMENT
Performance Schedule effective March 10, 2022

<u>Items Completed</u>	<u>Time for Performance</u>	<u>Completion Date</u>
City of Fresno City Council consideration of Disposition and Development Agreement (DDA)		Completed
Execution of DDA	Within fifteen days after approval of DDA by City Council and receipt and approval of insurance certificates and receipt of executed documents from Developer.	Completed
Escrow Opens	Within three days following the effective date of the DDA	
Submission of Building Plans for Planning and Building Review		Completed
Escrow Closes	Within thirty days of approval of all land use and other entitlements, permits, and approvals that City or any other governmental agency with jurisdiction over the Project requires for construction of the Project.	Completed
Commencement of Construction of Developer’s Improvements. Within thirty days after receipt of building permits by the Developer, construction shall commence on the improvements to be constructed on the Project Site.		June 2022

Completion of Construction of Developer's Improvements. The Developer shall complete construction of the improvements to be constructed on the Project Site.		December 2024
Issuance – Certificate of Completion. City shall furnish the Developer with a Certificate of Completion on the Project.	Promptly after completion of all construction and upon written request thereof by the Developer.	February 2025