

January 25, 2023

WHEREAS, the City of Dallas has engaged Messer, Fort & McDonald, PLLC to provide legal services related to appeals and defense of the Board of Adjustment in litigation; and

WHEREAS, on April 4, 2022, Administrative Action No. 22-5522, authorized a professional services contract with Messer, Fort & McDonald, PLLC to provide legal services related to appeals and defense of the Board of Adjustment in litigation, in an amount not to exceed \$50,000.00; and

WHEREAS, on August 11, 2022, Administrative Action No. 22-6061, authorized Supplemental Agreement No. 1 to the professional services contract with Messer, Fort & McDonald, PLLC to amend the scope of services to include legal services related to appeals and defense of the Board of Adjustment in connection with Cause No. DC-22-03741; David Session v. Board of Adjustment for the City of Dallas, et al., now styled as Andres "Andrew" Espinoza, in his Official Capacity as the Building Official of the City of Dallas, Texas v. Board of Adjustment for the City of Dallas and TCHDallas2, LLC, and Cause No. DC-22-05679; Andres "Andrew" Espinoza, in his Official Capacity as Director and Chief Building Official of the City of Dallas, Texas v. Board of Adjustment for the City of Dallas and Shuffle 214, LLC, a Texas Limited Liability Company, in an amount not to exceed \$50,000.00, increasing the contract amount from \$50,000.00 to \$100,000.00; and

WHEREAS, the professional legal services of Messer, Fort & McDonald, PLLC continue to be necessary.

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City Manager is hereby authorized to execute Supplemental Agreement No. 2 to the professional services contract with Messer, Fort & McDonald, PLLC, approved as to form by the City Attorney, to provide additional legal services related to appeals and defense of the Board of Adjustment in connection with Cause No. DC-22-03741; David Session v. Board of Adjustment for the City of Dallas, et al., now styled as Andres "Andrew" Espinoza, in his Official Capacity as the Building Official of the City of Dallas, Texas v. Board of Adjustment for the City of Dallas and TCHDallas2, LLC, and Cause No. DC-22-05679; Andres "Andrew" Espinoza, in his Official Capacity as Director and Chief Building Official of the City of Dallas, Texas v. Board of Adjustment for the City of Dallas and Shuffle 214, LLC, a Texas Limited Liability Company, in an amount not to exceed \$200,000.00, increasing the contract amount from \$100,000.00 to \$300,000.00.

SECTION 2. That the Chief Financial Officer is hereby authorized to disburse funds in an amount not to exceed \$200,000.00, in periodic payments to Messer, Fort & McDonald, PLLC from Liability Reserve Fund, Fund 0192, Department ORM, Unit 3888, Object 3033, Encumbrance/Contract No. ATT-2022-00019167, Vendor VC14156.

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SECTION 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.