

RESOLUTION NO. 2020-114

RESOLUTION APPROVING THE THIRD AMENDMENT TO THE MASTER REDEVELOPMENT AGREEMENT BETWEEN THE TOWNSHIP OF ABERDEEN AND SOMERSET DEVELOPMENT, L.L.C.

WHEREAS, the Township, in its function as an instrumentality pursuant to the provisions of the Local Redevelopment and Housing Law, as amended and supplemented, *N.J.S.A. 40A:12A-1 et seq.* (the “Housing Law”), and commenced a program for the redevelopment of a former industrial site located at Block 155, Lot 1, commonly known as the Anchor Glass Site within the Anchor Glass Redevelopment Area (hereinafter referred to as the “Redevelopment Area”); and

WHEREAS, the Township adopted the Redevelopment Plan for the Redevelopment Area as set forth in Township Ordinance No. 14-2010, known as the Glassworks Mixed Use Redevelopment Plan; and

WHEREAS, on February 21, 2006, the Township adopted Resolution No. 2006-40 designating Somerset Development L.L.C. (“Somerset”) to serve as the redeveloper of the Redevelopment Area; and

WHEREAS, a Master Redeveloper Agreement (“Master Agreement”) was entered into by Somerset and the Township in August of 2006, amended by the First Amendment to the Master Agreement on April 2016, and further amended by the Second Amendment to the Master Agreement on August 2016; and

WHEREAS, the Master Agreement requires the Redeveloper to pay the Township a contribution of approximately \$805,000 towards an offsite 16 inch water main (the “Water Infrastructure Contribution”) in accordance with Section 1.01 of the Master Agreement; and

WHEREAS, the Water Infrastructure Contribution remains outstanding and the Township has agreed to accommodate the Redeveloper as to the timing of the payment of the Water Infrastructure Contribution; and

WHEREAS, the Township and Redeveloper desire to enter into a Third Amendment to the Master Agreement for the purpose of amending the timing of the payment of the Water Infrastructure Contribution; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Township of Aberdeen, County of Monmouth, State of New Jersey, that the Third Amendment to the Master Agreement is hereby approved in substantially the form attached hereto as “Exhibit A”; and be it further

RESOLVED, that the Mayor and the Township Clerk are authorized to execute and attest to same.

ATTEST:

TOWNSHIP OF ABERDEEN

Karen Ventura, Township Clerk

By:

Fred Tagliarini, Mayor

EXHIBIT A

THIRD AMENDMENT TO THE MASTER REDEVELOPER AGREEMENT

This Third Amendment to the Master Redeveloper Agreement (the “Third Amendment”) is made as of this ___ day of _____ 2020 between **SOMERSET DEVELOPMENT L.L.C.**, a New Jersey Limited Liability Company (hereinafter referred to as the “Redeveloper” or “Somerset”), and the **TOWNSHIP OF ABERDEEN**, a public body corporate of the State of New Jersey (hereinafter referred to as the “Township”) and sets forth specific amendments to a certain Master Redeveloper Agreement entered into by the Redeveloper and the Township on August, 2006 (“Master Agreement”), as amended by First Amendment to the Master Redeveloper Agreement dated April 2016 (the “First Amendment”), as further amended by the Second Amendment to Master Redeveloper Agreement, dated August 2016 (the “Second Amendment” and collectively hereinafter referred to as the “Agreement”).

WHEREAS, pursuant to the provisions of the New Jersey Local Housing and Redevelopment Law, N.J.S.A. 40A:12A-1 et. seq. (“LHRL”) the Township has undertaken a program for the redevelopment of a former industrial site commonly identified as the Anchor Glass Site within the Anchor Glass Redevelopment Area (hereinafter referred to as the “Redevelopment Area”) and such parcel of property is identified as Tax Block 155, Lot 1 within the Township of Aberdeen; and

WHEREAS, the Township has adopted the Redevelopment Plan for the Redevelopment Area as set forth in Township Ordinance No. 14-2010 known as the Glassworks Mixed Use Redevelopment Plan (the “Redevelopment Plan”); and

WHEREAS, the Redeveloper requested that the Township designate it to serve as the redeveloper of the Redevelopment Area; and

WHEREAS, on February 21, 2006, the Governing Body of the Township adopted a resolution (Resolution No. 2006-40) designating Somerset to serve as the redeveloper of the Redevelopment Area; and

WHEREAS, the Township and Somerset thereafter negotiated and entered into the Agreement; and

WHEREAS, the Agreement provides for Redeveloper to make a contribution towards an offsite 16 inch water main in the approximate amount of Eight Hundred Five Thousand Dollars (\$805,000.00) (the “Water Infrastructure Contribution”) in accordance with Section 1.01 of the Agreement; and

WHEREAS, the Water Infrastructure Contribution remains outstanding and the Township has agreed to an accommodation to the Redeveloper as to the timing of the payment of the Water Infrastructure Contribution as provided herein; and

WHEREAS, as a result of the foregoing it is the intention of the parties to modify the Agreement by way of this Third Amendment.

NOW THEREFORE, for and in consideration of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and

sufficiency of which is hereby acknowledged by each of the parties hereto, and for the benefit of said parties and the general public, and, further to implement the purposes of the Redevelopment Law and the Redevelopment Plan, the parties hereto do hereby agree that the Agreement is hereby amended as set forth below:

I. CONFLICT OF TERMS.

In the event of a conflict between the terms of this Third Amendment and the Agreement, the terms of this Third Amendment will govern.

II. AMENDMENTS AND MODIFICATIONS TO THE AGREEMENT.

1. The final paragraph of Section 1.01 of the Agreement is hereby amended and restated in its entirety as follows:

In addition to the Open Space Fee of \$250,000.00 previously paid by the Redeveloper to the Township, the Redeveloper agrees to pay the Township \$805,000.00 towards the cost of certain water infrastructure improvements related to an offsite 16 inch water main installed or to be installed by the Township (the "Water Infrastructure Contribution"), which shall be paid in installments as set forth below. Subject to the requirements of this provision, the Township agrees and the Redeveloper shall pay proportionate installments of the Water Infrastructure Contribution to the Township as follows:

(1) The Redeveloper has paid all accrued interest on the financing the Township incurred on the Water Infrastructure Contribution through August 1, 2020 in the amount of \$158,000.00. The Township acknowledges receipt of this sum;

(2) Fifty percent (50%) of the outstanding principal sum of \$805,000 in the amount of \$402, 500 plus accrued interest thereon through the payoff date shall be paid to the Township no later than October 15, 2020; and

(3) The balance of the principal sum in the amount of \$402,500 plus interest accrued thereon shall thereafter be paid in equal monthly payments of principal and interest commencing on November 1, 2020 and continuing on the first day of each month thereafter through and including July 1, 2021 upon which all sums due hereunder shall be paid in full.

Provided Redeveloper is in compliance with the terms of the Water Infrastructure Contribution payments as revised above, the Township agree to timely process all requests for building permits, performance guarantee reductions and inspections regarding the Project. The Parties agree that in the event that the Redeveloper defaults on its obligation to pay the Water Infrastructure Contribution as provided above, the Township may issue a stop work order to the Redeveloper and take such any additional legal or equitable remedies is as may be available to the Township until such time as the outstanding amount is paid.

III. MISCELLANEOUS.

- 1.** This Third Amendment shall be governed by the laws of the State of New Jersey without regard to conflict of laws.
- 2.** Except as amended herein, the Agreement remains in full force and effect.
- 3.** If any term or provision of this Third Amendment or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Third Amendment shall not be affected thereby, and each other term and provision of this Third Amendment shall be valid and shall be enforced to the extent permitted by law.
- 4.** This Third Amendment may be executed in one or more counterparts and shall become binding on the parties and such counterparts shall constitute one and the same instrument upon the date that both parties have executed this Third Amendment.

Signatures follow on next page

IN WITNESS WHEREOF, the Parties have executed this Third Amendment to the Master Redeveloper Agreement between the Township of Aberdeen and Somerset Development L.L.C. as of the day and year first above written.

Witness: TOWNSHIP OF ABERDEEN a public body
corporate of the State of New Jersey

_____ By: _____
Fred Tagliarini, Mayor

Witness: SOMERSET DEVELOPMENT L.L.C.

_____ By: _____
Raphael Zucker, Sole Member

STATE OF NEW JERSEY :
SS:
COUNTY OF :

I CERTIFY that on _____, 2020, FRED TAGLIARINI, Mayor, personally came before me and acknowledged under oath, to my satisfaction, that:

(a) he signed and delivered this Third Amendment as the Mayor of the Township of Aberdeen and

(b) this Third Amendment was signed and made by the Mayor as his voluntary act duly authorized by the Council Members of the Township of Aberdeen.

Notary Public of New Jersey

STATE OF NEW JERSEY :
SS:
COUNTY OF :

I CERTIFY that on _____, 2020, RAPHAEL ZUCKER, personally came before me and acknowledged under oath, to my satisfaction, that:

(a) he signed and delivered this Third Amendment as the Sole Member of Somerset Development L.L.C.; and

(b) this Third Amendment was signed and made by RAPHAEL ZUCKER as his voluntary act and as the duly authorized sole member of Somerset Development L.L.C.

Notary Public of New Jersey

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