

CITY OF HOBART BOARD OF PUBLIC WORKS AND SAFETY

Resolution Number 2013-01

**A Resolution Approving Modifications to Development Agreements
Relating to the Silverstone Crossing Development**

WHEREAS, the Board of Public Works and Safety (“Board”) of the City of Hobart, Indiana (“City”) previously approved and adopted the following instruments, all related to the “Silverstone Crossing” Development in the City:

A. Development Agreement by and between B3 properties, LLC, an Indiana Limited Liability Company (“Developer”), the City of Hobart, Indiana, a municipal corporation organized and existing under the laws of the State of Indiana (“City”), and the Hobart Redevelopment Commission (“RDC”) a political subdivision of the State of Indiana and instrumentality of said City dated March 19, 2007, and recorded on March 21, 2007 as Document Number 2007 023797 in the Office of the Recorder of Lake County, Indiana;

B. Development Agreement by and between Diamond Veil Development, Inc., an Indiana Corporation (“Developer”), the City of Hobart, Indiana, a municipal corporation organized and existing under the laws of the State of Indiana (“City”), and the Hobart Redevelopment Commission (“RDC”) a political subdivision of the State of Indiana and instrumentality of said City dated March 19, 2007, and recorded on March 21, 2007 as Document Number 2007 023796 in the Office of the Recorder of Lake County, Indiana;

C. Amendment to said Development Agreement with B3 Properties, LLC dated October 22, 2009, said Amendment being approved by Resolutions of the City Board of Public Works and Safety (Resolution No. 2009-04 adopted on August 5, 2009), the City Council (Resolution No. 2009-17 adopted on August 19, 2009) and the City Redevelopment Commission (Resolution No. 2009-06 adopted on June 23, 2009); and

D. Amendment to said Development Agreement with Diamond Veil Development, Inc. dated October 22, 2009, said Amendment being approved by Resolutions of the City Board of Public Works and Safety (Resolution No. 2009-04 adopted on August 5, 2009), the City Council (Resolution No. 2009-17 adopted on August 19, 2009) and the City Redevelopment Commission (Resolution No. 2009-06 adopted on June 23, 2009); and

and

WHEREAS, each of said Development Agreements, as amended, contain a provision in sub-section 4.12 thereof which requires the Developer to complete at least thirty percent (30%) of the Development in POD E within six (6) years of the Effective Date of the Agreement, March 19, 2007, and one hundred percent (100%) of the Development of POD E within fifteen (15) years of the Effective Date of the Agreement. Further, said sub-section requires that, if the Developer fails to meet such time commitments, the Developer must pay monetary damages in the amount of thirty percent (30%) of the costs of the Public Infrastructure Improvements in POD E for failing to meet the six (6) year time commitment and one hundred percent (100%) of the costs of the Public Infrastructure Improvements in POD E for failing to meet the fifteen (15) year time commitment; and

WHEREAS, due to the delayed completion of the Public Infrastructure Improvements to Silverstone Crossings and the unforeseen recession affecting the real estate development industry since 2008, neither Developer has been able to achieve the development goals stated in Sub-Section 4.12 of the respective Development Agreements. Accordingly, the Board believes that it would be prudent to grant an extension of time of three (3) years, within which the Developers may achieve the completion of at least 30% completion of the Development in POD E, without being required to pay the money damages required by that sub-section. No change to the completion date for the entire project would be made; and

WHEREAS, a proposed Second Amendment to the Development Agreement with B3 Properties, LLC accomplishing the modification of Sub-Section 4.12 as described above is attached as Exhibit "A," and a proposed Second Amendment to the Development Agreement with Diamond Veil Development, Inc. accomplishing the modification of Sub-Section 4.12 as described above is attached as Exhibit "B;" and

WHEREAS, the Board now wishes to approve said Amendments, authorize their execution upon approval of the Common Council of the City and the City RDC, and spread same of record.

THEREFORE, BE IT RESOLVED by the Common Council of the City of Hobart, Indiana that:

1. The Second Amendment to the Development Agreement between B3 Properties, LLC (or its successor or successors in interest), the City of Hobart and the Hobart Redevelopment Commission, attached hereto as Exhibit "A," is approved in all respects. Upon the approval and adoption of said Amendment by the Common Council, the City Redevelopment Commission, and its execution by the Developer or its successor or successors in interest, the Mayor and Clerk-Treasurer are authorized to execute and attest to the execution of said instrument.

2. The Second Amendment to the Development Agreement between Diamond Veil Development, Inc. (or its successor or successors in interest), the City of Hobart and the Hobart Redevelopment Commission, attached hereto as Exhibit "A," is approved in all respects. Upon the approval and adoption of said Amendment by the Common Council, the City Redevelopment Commission, and its execution by the Developer or its successor or successors in interest, the Mayor and Clerk-Treasurer are authorized to execute and attest to the execution of said instrument.

3. The Board recommends the approval of Said Amendments by the Council and RDC. Upon final approval and execution of said amendments, all documents and records of the City shall be amended to reflect the corrections and amendments provided for in the Instruments of Amendment above.

4. A copy of this resolution with the attached Amendments shall be directed by the City Director of Development to such other governmental entities she shall deem necessary.

ALL OF WHICH is adopted as the Resolution of the Common Council of the City of Hobart, Indiana on this Sixth day of March, 2013.

PRESIDING OFFICER

ATTEST:

DEBORAH A. LONGER, Clerk-Treasurer