

COMMON COUNCIL OF THE CITY OF HOBART, INDIANA

RESOLUTION NO. 2020- 14

A Resolution to Approve and Authorize the Execution of an Amendment to the Development Agreement between the City of Hobart, Hobart Sanitary District, Hobart Storm Water Management Department and Cressmoor Development, LLC and Cressmoor Financial, LLC

WHEREAS, the Common Council ("Council") of the City of Hobart, Lake County, Indiana ("City") adopted Resolution No. 2019-16 on July 3, 2019 declaring that the area commonly known as the Cressmoor Estates Planned Unit Development in the City of Hobart, Lake County, Indiana 46342, as more particularly described in Exhibit "A" attached to said Resolution, is an Economic Revitalization Area for the purpose of encouraging development and occupancy therein by providing real property tax abatement in accordance with I.C. 6-1.1-12.1, *et seq.*; and

WHEREAS, said Resolution was adopted pursuant to the application of Cressmoor Estates, LLC and Cressmoor Financial, LLC (collectively "Cressmoor") for the construction of a residential development including commercial strip, and the Council subsequently on August 21, 2019 adopted its Resolution No. 2019-17 confirming said area as an Economic Development Target Area after public hearing duly noticed in the manner required by law; and

WHEREAS, the City of Hobart and Cressmoor negotiated, approved, and executed, upon the approval of this Board, a Development Agreement governing the covenants, terms and conditions under which the project would be constructed and said abatement administered, said Development Agreement dated on August 8, 2019, was executed by all of the parties, and was recorded in the Office of the Lake County Recorder on November 27, 2019 as Document Number 2019-081874. The Agreement had been duly approved by the Common Council and the Board on August 21, 2019 and by the joint Board of the Hobart Sanitary District and Hobart Storm Water Management Department (the "Joint Board"), instrumentalities of the City also parties to the Agreement (jointly referred to as the "District") on August 27, 2019; and

WHEREAS, the parties later discovered that there is a scrivener's error in the final paragraph of subsection (a) of Section 2.01 of the Agreement, in that a ten-year "window of opportunity" for the issuance of building permits for the project for dwelling units subject to property tax abatement was to commence on August 7, 2019, the date anticipated for approval of the Agreement by the City, and to extend for a period of ten (10) years thereafter, expiring on August 7, 2029; and

WHEREAS, the actual date of adoption of the Common Council Resolution granting the tax abatement was August 21, 2019, and ten years after that date would result in the expiration of the "window of opportunity" on August 21, 2029, not August 7, 2020; and

WHEREAS, the parties have negotiated and approved an Agreement amending the Development Agreement (the "Amendment Agreement") to correct these errors, said Agreement being attached hereto and made a part hereof; and

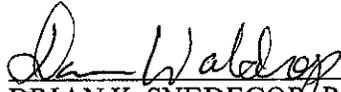
WHEREAS, the Council now desires to approve and adopt said Amendment Agreement

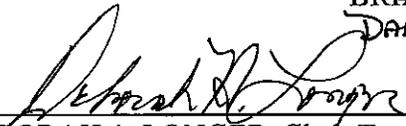
and to authorize its execution for itself and the City, such approval to become effective upon the adoption and approval of this Resolution in substantially similar form by the Board of Public Works and Safety of the City of Hobart, and by the Joint Board of the Hobart Sanitary District and Hobart Storm Water Management Department.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Hobart as follows:

1. The Amendment Agreement by and between the City, the District, Cressmoor Estates, LLC and Cressmoor Financial, LLC, which is attached hereto, is hereby approved and adopted.
2. The President and Secretary are authorized to execute and to attest to the execution of the Amendment Agreement, respectively.
3. This Resolution shall take effect upon its adoption, in substantially similar form, by the Board of Public Works and Safety of the City of Hobart and by the Joint Board of the Hobart Sanitary District and Hobart Storm Water Management Department.

ALL OF WHICH IS ADOPTED on this 7th day of October, 2020 by the COMMON COUNCIL OF THE CITY OF HOBART, INDIANA.


BRIAN K. SNEDECOR, Presiding Officer
DAN WALDROP

ATTEST: 
DEBORAH A. LONGER, Clerk-Treasurer

PRESENTED by me to the Mayor of the City of Hobart on the 8th day of October, 2020 at the hour of 7:45 am.


DEBORAH A. LONGER, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City of Hobart on this 8th day of October, 2020.


BRIAN K. SNEDECOR, Mayor

ATTEST: 
DEBORAH A. LONGER, Clerk-Treasurer

AMENDMENT TO DEVELOPMENT AGREEMENT

THIS AGREEMENT is made and entered into on the ____ day of _____, 2020 by and between CRESSMOOR DEVELOPMENT, LLC, an Indiana Limited Liability Company, and CRESSMOOR FINANCIAL, LLC, an Indiana Limited Liability Company, both with principal offices located at 4529 East Lincoln Highway, Merrillville, Indiana 46342 acting by and through their Managing Member Randolph A. Hall (collectively referred to herein as "Cressmoor" or the "Companies"), and the CITY OF HOBART, INDIANA, a municipal corporation organized and existing under the laws of the State of Indiana with principal offices at 414 Main Street, Hobart, Indiana 46342 (the "City"), acting through its Executive, Brian K. Snedecor, Mayor, and the BOARD OF PUBLIC WORKS AND SAFETY OF THE CITY OF HOBART, an instrumentality of the City, with offices at the same address ("Board"), and the HOBART SANITARY DISTRICT and HOBART STORM WATER MANAGEMENT DEPARTMENT, instrumentalities of the City also at the same address (jointly referred to as the "District"). The City, Board and District are collectively referred to as the "City Parties."

Recitals

WHEREAS, the Companies, City, Board and District entered into a Development Agreement ("Agreement") governing the construction and development of the infrastructure for, and the establishment of a large residential development, including a commercial strip, to be known as "Cressmoor Estates" also referred to herein as the "Development" in Hobart, Indiana, lying generally between Wisconsin Street on the West, Lake Park Avenue on the East, and South of 37th Avenue and North of Old Ridge Road in the City; and

WHEREAS, said Development Agreement was dated on August 8, 2019, was executed by all of the parties, and was recorded in the Office of the Lake County Recorder on November 27, 2019 as Document Number 2019-081874. The Agreement had been duly approved by the Common Council of the City of Hobart, and the Board on August 21, 2019 and the District on August 27, 2019; and

WHEREAS, the parties later discovered that there is a scrivener's error in the final paragraph of subsection (a) of Section 2.01 of the Agreement, in that a ten-year "window of opportunity" for the issuance of building permits for the project for dwelling units subject to property tax abatement was to commence on August 7, 2019, the date anticipated for approval of the Agreement by the City, and to extend for a period of ten (10) years thereafter, expiring on August 7, 2029; and

WHEREAS, the text of this paragraph of the Agreement as adopted and executed in 2019 states as follows:

In order to obtain the tax abatement for one of the above-identified lots, the building permit for that lot must be issued during the period commencing twelve (12) months after the date of the passage of the Common Council confirmatory ordinance granting the abatements (expected to be on August 7, 2019), and ending ten (10) years from such commencement date (expected to be August 7, 2020). This period is referred to as the "window of opportunity." The deduction period shall commence on January 1 of the tax year the improvements

on the lot are fully assessed for property taxation. Only owner-occupied units in Lots 1 through 156, 188, and Lots 208 through 234 qualify for tax abatement.

And

WHEREAS, the actual date of adoption of the Common Council Ordinance granting the tax abatement was August 21, 2019, and ten years after that date would result in the expiration of the "window of opportunity" on August 21, 2029, not August 7, 2020; and

WHEREAS, the parties through this instrument wish to amend the Development Agreement by inserting corrective language, such language to relate back to the date of original approval as if it had been correctly stated at the time of the original execution and delivery.

THEREFORE, IN CONSIDERATION of the mutual promises, terms and conditions hereinafter set forth and intending themselves to be legally bound, the parties agree as follows:

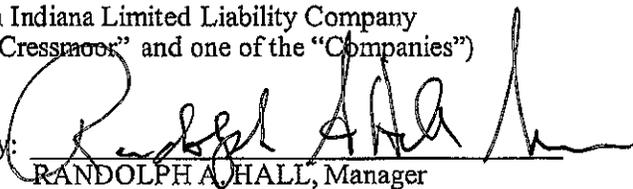
1. Amendment. The first full paragraph of Section 2.01 (a) of said Development Agreement is hereby stricken in its entirety, and the following new paragraph is inserted in lieu thereof:

In order to obtain the tax abatement for one of the above-identified lots, the building permit for that lot must be issued during the period commencing twelve (12) months after the date of the passage of the Common Council confirmatory ordinance granting the abatements (August 21, 2019), and ending ten (10) years from such commencement date (August 21, 2029). This period is referred to as the "window of opportunity." The deduction period shall commence on January 1 of the tax year the improvements on the lot are fully assessed for property taxation. Only owner-occupied units in Lots 1 through 156, 188, and Lots 208 through 234 qualify for tax abatement.

2. Other Language Unaffected. All other language appearing in the Development Agreement between the parties adopted and executed in 2019 shall remain unaffected by this Amendment.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CRESSMOOR DEVELOPMENT, LLC
an Indiana Limited Liability Company
("Cressmoor" and one of the "Companies")

By: 
RANDOLPH A. HALL, Manager

CRESSMOOR FINANCIAL, LLC
an Indiana Limited Liability Company
("Cressmoor" and one of the "Companies")

By: 
RANDOLPH A. HALL, Manager

CITY OF HOBART, INDIANA ("CITY"),
a municipal corporation

By: _____
BRIAN K. SNEDECOR, Mayor

ADOPTED and APPROVED by the City of Hobart Board of Public Works and Safety on
this _____ day of October, 2020.

CITY OF HOBART BOARD OF PUBLIC
WORKS AND SAFETY ("Board"):

BRIAN K. SNEDECOR, Presiding Officer

DEBORAH A. LONGER, Member

RICH LAIN, Member

ATTEST: _____
Assistant Clerk-Treasurer

HOBART SANITARY DISTRICT AND
HOBART DEPARTMENT OF STORM WATER MANAGEMENT
("DISTRICT")

By: _____

ROBERT B. FULTON, President

ADOPTED and APPROVED by the joint Hobart Sanitary District Board of Commissioners and Hobart Storm Water Management Board of Directors on this _____ day of October, 2020.

ROBERT B. FULTON, President

ATTEST: _____
PHILLIP E. GRALIK, P.E., Secretary

STATE OF INDIANA)
) ss:
LAKE COUNTY)

BEFORE ME, a duly appointed Notary Public in and for said county and state, appeared Randolph A. Hall, Manager of Cressmoor Development, LLC and Manager of Cressmoor Financial, LLC, parties to the above instrument and a person known to me, who acknowledged execution of same in such capacities, as his free and voluntary act, for the uses and purposes stated therein.

IN WITNESS WHEREOF, I have affixed my signature and official seal on this 29th day of ~~October~~, 2020.
~~September~~

Michele L. Phillips

Notary Public

Name Printed: Michele L. Phillips

County of Residence: Porter

My Commission Expires: 8.13.2021



Certificate of Proof for Signature of Randolph A. Hall

EXECUTED AND DELIVERED in my presence:

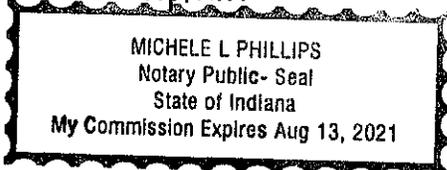
:

JL

(Witness) Name Printed: Jennifer L. Colman

BEFORE ME, a Notary Public in and for said county and state, personally appeared Jenny Culnan, being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being first duly sworn upon her oath by me, deposes and states that the foregoing instrument was executed and delivered by Randolph A. Hall in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

IN WITNESS WHEREOF, I have affixed my signature and Notarial Seal on this 29th day of ~~October~~, 2020. September



Michele L. Phillips
Michele L. Phillips Notary Public

My Commission Expires: 8-13-2021
County of Residence: Lake County = Porter

STATE OF INDIANA)
) ss:
LAKE COUNTY)

BEFORE ME, a duly appointed Notary Public in and for said county and state, appeared Brian K. Snedecor, Mayor of the City of Hobart, Indiana, a party to the above instrument and a person known to me, who acknowledged execution of same in such capacity, as his free and voluntary act, for the uses and purposes stated therein.

IN WITNESS WHEREOF, I have affixed my signature and official seal on this _____ day of October, 2020.

Notary Public

Name Printed: _____

S E A L

County of Residence: _____

My Commission Expires: _____

Certificate of Proof for Signature of Brian K. Snedecor

EXECUTED AND DELIVERED in my presence:

:

(Witness) Name Printed _____

BEFORE ME, a Notary Public in and for said county and state, personally appeared _____, being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being first duly sworn upon his or her oath by me, deposes and states that the foregoing instrument was executed and delivered by Brian K. Snedecor in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

IN WITNESS WHEREOF, I have affixed my signature and Notarial Seal on this _____ day of October, 2020.

Notary Public
My Commission Expires: _____
County of Residence: Lake County

STATE OF INDIANA)
) ss:
LAKE COUNTY)

BEFORE ME, a duly appointed Notary Public in and for said county and state, appeared BRIAN K. SNEDECOR, DEBORAH A. LONGER and RICHLAIN, Mayor-Presidenting Officer of the City of Hobart Board of Public Works and Safety, Clerk-Treasurer of the City of Hobart, Indiana and member of said Board, and Member of said Board, respectively, signatories to the above instrument and persons known to me, who acknowledged execution of same in such capacities on behalf of said City, as their free and voluntary acts, for the uses and purposes stated therein.

IN WITNESS WHEREOF, I have affixed my signature and official seal on this _____ day of October, 2020.

Notary Public
Name Printed: _____
County of Residence: _____
My Commission Expires: _____

S E A L

Certificate of Proof for Board of Public Works and Safety

EXECUTED AND DELIVERED in my presence:

:

(Witness) Name Printed _____

BEFORE ME, a Notary Public in and for said county and state, personally appeared _____, being known to me to be the person whose name is

subscribed as a witness to the foregoing instrument, who, being first duly sworn upon her oath by me, deposes and states that the foregoing instrument was executed and delivered by BRIAN K. SNEDECOR, DEBORAH A. LONGER and RICH LAIN in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

IN WITNESS WHEREOF, I have affixed my signature and Notarial Seal on this _____ day of October, 2020.

Notary Public

My Commission Expires: _____
County of Residence: Lake County

STATE OF INDIANA)
) ss:
LAKE COUNTY)

BEFORE ME, a duly appointed Notary Public in and for said county and state, appeared ROBERT B. FULTON and PHILLIP E. GRALIK, P.E., President and Secretary, respectively, of the joint Hobart Sanitary District Board of Commissioners and Hobart Storm Water Management Board of Directors, signatories to the above instrument and persons known to me, who acknowledged execution of same in such capacities on behalf of said City, as their free and voluntary acts, for the uses and purposes stated therein.

IN WITNESS WHEREOF, I have affixed my signature and official seal on this _____ day of October, 2020.

Notary Public
Name Printed: _____

S E A L

County of Residence: _____
My Commission Expires: _____

Certificate of Proof for joint Hobart Sanitary District Board of Commissioners and Hobart Storm Water Management Board of Directors

EXECUTED AND DELIVERED in my presence:

:

(Witness) Name Printed _____

BEFORE ME, a Notary Public in and for said county and state, personally appeared _____, being known to me to be the person whose name is subscribed as a witness to the foregoing instrument, who, being first duly sworn upon his/her oath by me, deposes and states that the foregoing instrument was executed and delivered by Robert B. Fulton and Phillip E. Gralik, PE in the above-named subscribing witness's presence, and that the above-named subscribing witness is not a party to the transaction described in the foregoing instrument and will not receive any interest in or proceeds from the property that is the subject of the transaction.

IN WITNESS WHEREOF, I have affixed my signature and Notarial Seal on this _____ day of October, 2020.

Notary Public

My Commission Expires: _____
County of Residence: Lake County

I affirm under the penalty for perjury that I have taken reasonable care to redact each Social Security number in this document unless required by law. Anthony DeBonis, Jr.

*This Instrument prepared by Anthony DeBonis, Jr., Attorney for Hobart Redevelopment Commission, ANTHONY DeBONIS, JR. & ASSOCIATES ATTORNEYS AT LAW, LLC,
9216 Norris Drive, Hobart, Indiana 46342
(219) 730-1970; Facsimile (219) 942-8781*