

RESOLUTION NO. R 2022-012

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE PURCHASE AND SALE BETWEEN THE TOWN OF DAVIE AND CG DAVIE NORTH LLC FOR THE OLD WATER PLANT PROPERTY LOCATED AT 3790 DAVIE ROAD (FOLIO NUMBER 504126020050); PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Davie (“Town”) approved a purchase and sale agreement for the Old Water Plant (3790 Davie Road) with CG Davie North LLC on May 20, 2020 via Resolution 2020-157;

WHEREAS, the Town approved the first amendment to the purchase and sale agreement to clarify the legal description of the Property to be sold by the Town on August 5, 2020 via Resolution 2020-197;

WHEREAS, the Town and CG Davie North LLC approved the second amendment to the purchase and sale agreement to state that the Town will plug and abandon the on-site water wells and provide documentation that the environmental cleanup on-site did not cause any additional adverse environmental conditions on December 2, 2020 via Resolution 2020-334;

WHEREAS, the Town and CG Davie North LLC have prepared the third amendment to the purchase and sale agreement whereby CG Davie North LLC will become responsible for completing the Town’s responsibilities in the purchase and sale agreement including the environmental remediation of possible fluoride contamination, any remaining work associated with the capping of on-site wells, demolition of on-site buildings and site grading;

WHEREAS, in return for CG Davie North LLC taking over the Town of Davie responsibilities, the Town will agree to provide credits totaling \$1.5 million that can be utilized to pay Town development fees for the Zona Place project. Development fees will include building permits, engineering permits, impact fees, inclusionary housing fees, water and sewer connection fees, etc;

WHEREAS, this third amendment also states the closing date for the Town's sale of old water plant property to CG Davie North, LLC will occur or before February 10, 2022; and

WHEREAS, the Town Council desires to approve the third amendment to the purchase and sale agreement between CG Davie North, LLC and the Town of Davie.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

Section 1. Legislative Findings/Recitals. The above recitals are hereby adopted by the Town of Davie as its legislative findings relative to the subjects and matters set forth in this Resolution.

Section 2. The Town Council of the Town of Davie approves the third amendment to the Purchase and Sales Agreement between CG Davie North, LLC and the Town of Davie.

Section 3. Conflict. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

Section 4. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, it is the intent of the Town Council that such invalidity shall not affect other provisions or applications of the Resolution which can be given effect without the invalid provision or application and, to this end, the provisions of this Resolution are declared severable.


Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS 19th DAY OF JANUARY, 2022



MAYOR/COUNCILMEMBER

ATTEST:



TOWN CLERK

APPROVED THIS 19th DAY OF JANUARY, 2022.

Approved as to Form and Legality:



TOWN ATTORNEY

THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT

THIS THIRD AMENDMENT TO PURCHASE AND SALE AGREEMENT (the “Third Amendment”) is made and entered into this 19th day of January, 2022, by and between the **TOWN OF DAVIE**, a Florida municipal corporation (the “Seller”) and **CG DAVIE NORTH, LLC**, a Florida limited liability company (the “Buyer”).

WITNESSETH:

WHEREAS, the Seller and the Buyer entered into and executed a Purchase and Sale Agreement dated as of May 20, 2020 (the “Purchase Agreement”), pursuant to which the Seller agreed to sell and convey to the Buyer, and the Buyer agreed to purchase from the Seller, the property (the “Property”) owned by the Seller, therein described; and

WHEREAS, the Seller and the Buyer entered into and executed a First Amendment to Purchase and Sale Agreement dated August 5, 2020 (the “First Amendment”), therein amending and modifying the legal description of the Property; and

WHEREAS, the Seller and the Buyer entered into and executed a Second Amendment to Purchase and Sale Agreement dated November 20, 2020 (the “Second Amendment”), therein further amending and modifying the Purchase Agreement; and

WHEREAS, the Seller and the Buyer have agreed to further amend and modify the Purchase Agreement in accordance with the terms and provisions of this Third Amendment;

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable considerations, the receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. The Closing Date is hereby amended to be on or before February 10, 2022 (the “Accelerated Closing Date”).

2. Notwithstanding any provision to the contrary which may be contained within the Purchase Agreement, from and after the date Buyer closes upon the purchase of the Property in accordance with the terms and provisions of the Purchase Agreement, Buyer shall assume the responsibility, at Buyer’s sole cost and expense, for the completion of: (i) the Environmental Remediation; (ii) the Wells Work; and (iii) the Seller’s Work. As a result of Buyer’s assumption of the responsibility for the completion of: (i) the Environmental Remediation; (ii) the Wells Work; and (iii) the Seller’s Work, the Seller, from and after the Closing Date, shall no longer have any responsibility for the completion of: (i) the Environmental Remediation; (ii) the Wells Work; or (iii) the Seller’s Work.

3. For and in consideration of: (i) Buyer agreeing to close the transaction contemplated by the Purchase Agreement by the Accelerated Closing Date; and (ii) Buyer’s assumption of the responsibility, at Buyer’s sole cost and expense, for the completion of: (A) the Environmental Remediation; (B) the Wells Work; and (iii) the Seller’s Work, at Closing the Developer’s Agreement dated March 18, 2020 pertaining to the Property (the “Developer’s Agreement”) shall be amended to provide for the following:

(i) Seller shall charge/impose no application fees, permit fees or other fees in relation to the issuance of any permits (collectively the “Permits”) required to be obtained by Buyer to commence and complete: (A) the Environmental Remediation; (B) the Wells Work; and (C) the Seller’s Work;

(ii) Seller shall utilize all reasonable efforts to expedite the issuance of the Permits subsequent to the submission by Buyer to the Town of the applications for the Permits; and

(iii) Seller shall make available to Buyer, a credit (“Credit”) in the amount of \$1,500,000.00, which Credit shall be available to be applied by Buyer (in lieu of cash payments), from time to time and in Buyer’s sole and absolute discretion, to the payment of all permit fees [not including the permit fees waived by the Town pursuant to the provisions of subparagraph (ii) immediately above], water and sewer hook up and reservation

fees, any inclusionary housing fees, impact fees and all other fees which would customarily be charged by Seller in relation to the development and construction of the project (the "Project") contemplated to be developed and constructed by Buyer upon the Property.

4. The Town and Developer agree that the maximum net commercial square footage shall increase from up to 5,000 to up to 10,000 square feet subject to all Town and Broward County developmental approvals. Developer shall be responsible for all costs associated with obtaining development approvals to increase the net commercial square footage.

5. The terms and provisions of Paragraph 3 of this Third Amendment shall be incorporated into a recordable Covenant Running With the Land (the "Covenant") executed by Seller and Buyer, which Covenant shall be recorded among the Public Records of Broward County, Florida in conjunction with the closing of the transaction contemplated by the Purchase Agreement.

6. Seller and Buyer shall, at Closing, execute and deliver an Amendment to the Developers Agreement for the Property in the form attached to this Third Amendment as Exhibit "A".

7. The following subparagraph is hereby deleted from the Purchase Agreement:

"14.21 In the event the Environmental Remediation (if required to be performed by Seller) is not completed by the Remediation Completion Outside Date and/or in the event the Wells Work is not completed by the Wells Work Completion Outside Date and/or in the event the Seller's Work is not completed by the Seller's Work Completion Outside Date, then all timelines provided for in this Agreement shall be extended on a daily basis until the Environmental Remediation (if required to be performed by Seller), the Wells Work and the Seller's Work have all been completed in the manner specified in this Agreement."

8. Subparagraph 14.20 and 14.21 (the properly numbered subparagraph 14.21) shall survive Closing and shall not be deemed to merge into the Deed.

9. In the event of a conflict between this Third Amendment and the Purchase Agreement with regard to the subject matter hereof, the terms and provisions of this Third Amendment shall be superseding and controlling. Except to the extent modified and amended by this Third Amendment and except to the extent modified and amended by the First Amendment and by the Second Amendment, the terms and provisions of the Purchase Agreement shall remain unmodified and shall continue to be in full force and effect.

10. The Purchase Agreement, as previously amended and modified by the First Amendment and by the Second Amendment and as amended and modified by this Third Amendment, constitutes the entire Purchase Agreement and understanding of the parties, and shall not be modified or amended except by written agreement duly executed by the parties hereto. Except as may otherwise be provided for herein, all capitalized terms used herein shall have the meaning ascribed to them in the Purchase Agreement.

11. This Third Amendment is made for the sole benefit and protection of Seller and Buyer, and no other person shall have any right of action hereunder.

12. This Third Amendment may be executed in any number of counterparts and by electronic transmission, each of which, when executed and delivered, shall be deemed an original, but all counterparts shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Third Amendment to Purchase and Sale Agreement has been executed by the Seller and by the Buyer.

BUYER:

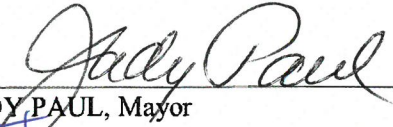
CG DAVIE NORTH, LLC, a Florida limited liability company

By: 
JEREMY BEDZOW, Manager

Date: Jan 11, 2022

SELLER:

THE TOWN OF DAVIE, a Florida municipal corporation

By: 
JUDY PAUL, Mayor

Date: January 19, 2022