

**BOROUGH OF EMERSON
COUNTY OF BERGEN, NEW JERSEY
RESOLUTION NO. 305-18**

RE: AUTHORIZING THE EXECUTION OF THIRD AMENDMENT TO REDEVELOPMENT AGREEMENT BETWEEN THE BOROUGH OF EMERSON AND EMERSON REDEVELOPERS URBAN RENEWAL, LLC

WHEREAS, Emerson Redevelopers Urban Renewal, LLC (“ERD” or “Redeveloper”) was designated as Redeveloper of Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9, and 10 by the Borough of Emerson (“Borough”); and

WHEREAS, pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., (“LRHL”) the Borough has the power to enter into an agreement with a redeveloper to implement and effectuate a redevelopment plan; and

WHEREAS, on June 14, 2016, by Resolution No. 17346, the Borough approved the execution of a Redevelopment Agreement between the Borough and Redeveloper for the redevelopment of certain areas located within the Central Business District for a mixed use project; and

WHEREAS, per the Redeveloper’s proposal to the Borough and the Borough’s Redevelopment Plan, the areas to be redeveloped are Block 419, Lots 1, 2, 3, 4, 6.01, 6.02, 7, 8, 9, and 10 on the Official Tax Map of the Borough; and

WHEREAS, the Borough and the Redeveloper entered into a First Amendment and a Second Amendment to the Redevelopment Agreement to amend and supplement the Redevelopment Agreement; and

WHEREAS, the Borough and Redeveloper have mutually agreed to enter into a Third Amendment to the Redevelopment Agreement to amend and supplement the Redeveloper’s required contributions for certain onsite and offsite improvements, and to modify the current ownership interest in Redeveloper which Borough approval of such transfer is required pursuant to N.J.S.A. 40A:12A-9, which modification arose from Redeveloper’s efforts to acquire those portions of the Property not owned or controlled by Redeveloper, all as more fully and completely set forth in form and substance attached hereto as Exhibit A;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Emerson, County of Bergen, State of New Jersey, that it hereby authorizes the Mayor to execute and the Borough Clerk to witness the execution of a Third Amendment to the Redevelopment Agreement between the Borough and Emerson Redevelopers Urban Renewal, LLC, attached hereto in form and substance as Exhibit A.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect.

	M O V E D	S E C O N D E D	A Y E S	N A Y S	A B S E N T	A B S T A I N
COUNCIL						
DiPaola						X
Bayley		X	X			
Wolf			X			
Knoller	X		X			
Falotico					X	
Downing			X			

I hereby certify that the above Resolution was duly adopted by the Borough of Emerson at a meeting held on December 18, 2018.

Attest:



 Municipal Clerk

THIRD AMENDMENT TO REDEVELOPMENT AGREEMENT

This **Third Amendment to Redevelopment Agreement** (“**Third Amendment**”) is made this 31 day of Dec, 2018, by and between

THE BOROUGH OF EMERSON,
a municipal corporation of the State of New Jersey,
located in the County of Bergen,
with an address at 146 Linwood Avenue, Emerson, New Jersey 07630
(hereinafter referred to as the “**Borough**”)

AND

EMERSON REDEVELOPERS URBAN RENEWAL, LLC,
a limited liability company of the State of new Jersey,
with an address at c/o Accurate Builders & Developers, 742 Ocean Avenue,
Lakewood, New Jersey 08701
(hereinafter referred to as “**Redeveloper**”).

WHEREAS, the Borough and Redeveloper entered into a Redevelopment Agreement dated June 27, 2016, which was amended on October 4, 2016 and November 20, 2017 (collectively, the “**Redevelopment Agreement**”), for the redevelopment of certain areas (the “**Property**”) within the Central Business District Redevelopment Area, which Redevelopment Agreement is attached hereto and made a part hereof as **Exhibit A**; and

WHEREAS, the Borough and the Redeveloper are desirous of amending and supplementing the Redevelopment Agreement to reflect their mutual understanding with respect to the implementation of Redeveloper’s proposed mixed-use inclusionary development on the Property; and

WHEREAS, the Borough and Redeveloper have agreed to amend and supplement the Redevelopment Agreement upon the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borough and the Redeveloper agree as follows:

1. All terms not defined in this Third Amendment shall have the meaning as set forth in the Redevelopment Agreement.

2. The purpose and intent of this Third Amendment is to amend and supplement the Redevelopment Agreement with respect to Redeveloper’s required contributions for certain onsite and offsite improvements, with respect to the current ownership interest in Redeveloper resulting from a Borough approved transfer, and with respect to Redeveloper’s efforts to acquire those portions of the Property not owned or controlled by Redeveloper.

[J005-0020/482895/1]

3. Section 4.04 of the Redevelopment Agreement is hereby deleted in its entirety and replaced with the following language:

Section 4.04. Redeveloper Contribution for Emergency Municipal Services Building. The Borough has dedicated and shall transfer Block 419, Lot 7 to Redeveloper for the Project ("Dedicated Lot") which is currently utilized by the Borough Ambulance Corp. and has a fair market value of \$500,000. In consideration therefore, the Redeveloper shall serve as the general contractor pursuant to a separate general contractor's agreement to be negotiated by the parties, and shall construct an Emergency Municipal Services Building as defined hereinabove. The Borough shall, within one (1) year from the adoption of this Third Amendment, identify the property upon which the Emergency Municipal Services Building is to be constructed and the Borough shall, at its sole cost and expense, provide all necessary site plans, engineering materials and architectural plans and secure all necessary local, county and state approvals and permits, including building permits, from all agencies having jurisdiction over the project. In the event that the Borough fails to deliver said plans, approvals and permits within said 1-year period, the Redeveloper shall be relieved from all obligations to construct the Emergency Municipal Services Building.

The Borough shall pay Redeveloper for all costs associated with the construction of the Emergency Municipal Services Building, less the costs associated directly with and specifically allocated to, the portion of the building utilized for ambulance services which, in no case, shall exceed the fair market value of the Dedicated Lot as set forth above.

4. The Redeveloper Estimate/Share for Offsite/Onsite Improvements attached to the Redevelopment Agreement as Exhibit F, shall be amended, attached hereto and made a part hereof as **Exhibit B**, to more accurately reflect Redeveloper's required share of costs for the Kinderkamack Road Improvements.

5. Further to Section 5.01, the Borough and Redeveloper acknowledge and agree that the obligations set forth in the Redevelopment Project Schedule, attached to the Redevelopment Agreement as Exhibit C, have been tolled due to litigation involving the Redeveloper's acquisition of those portions of the Property not owned or controlled by Redeveloper.

6. In accordance with 6.01 of the Redevelopment Agreement, the Borough and Redeveloper acknowledge and agree that the ownership interest in the Redeveloper, resulting from a Borough approved transfer, is as follows:

<u>Name</u>	<u>Address</u>	<u>Percentage Ownership Interest</u>
Yaakov Klugmann	Accurate Builders & Developers 742 Ocean Avenue Lakewood, NJ 08701	51%

Giuseppi Forgione JMF Properties 49%
80 S. Jefferson Road, Suite 202
Whippany, NJ 07981

7. The "Members of Redeveloper" set forth in Exhibit D to the Redevelopment Agreement shall be amended, attached hereto and made a part hereof as Exhibit C, to reflect the change in ownership interest in the Redeveloper.

8. The contact information for Redeveloper as set forth in Section 14.08 (Notices and Demands) of the Redevelopment Agreement shall be amended to reflect the change in ownership interest in the Redeveloper, as follows:

Emerson Redevelopers Urban Renewal, LLC
c/o Accurate Builders & Developers
724 Ocean Avenue
Lakewood, NJ 08701

With a copy to:

Porzio, Bromberg & Newman, P.C.
100 Southgate Parkway, P.O. Box 1997
Morristown, NJ 07962-1997
Attn: Joseph A. Paparo, Esq.

9. Redeveloper shall submit proposed final versions of the site plan and architectural plans (including elevations) for the Project to the Borough Clerk for review by a duly-formed subcommittee of the Borough Governing Body, acting in its capacity as the Borough's redevelopment agency under the Act. This review shall be undertaken within thirty (30) days of receipt of the plans by the Borough Clerk and the sole purpose of this review shall be to confirm that the submitted plans are consistent with the Redevelopment Plan (as such Redevelopment Plan has been amended through the date of this Third Amendment).

10. In all other respects, the Redevelopment Agreement remains in full force and effect and there has been no breach or default to date, by Redeveloper.

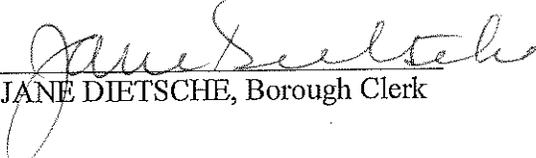
11. This Third Amendment together with the proposal, the Land Use Board Resolution(s), any Orders or Directives of any authorized Borough Official, and the Redevelopment Agreement, represents the entire understanding of the Borough and Redeveloper with respect to the subject matter of this Third Amendment and the Redevelopment Agreement. No further change or modification shall be effective unless in writing and signed by the Borough and Redeveloper.

12. All the provisions of this Third Amendment shall survive and shall remain in full force and effect, despite the expiration or completion of any other provisions of the Redevelopment Agreement or any other extinguishing or superseding event or document.

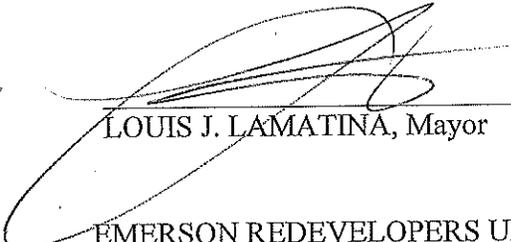
[J005-0020/482895/1]

IN WITNESS WHEREOF, Redeveloper has hereunto caused this Third Amendment to Redevelopment Agreement to be signed by its proper authorized parties and has caused its proper seals, if any, to be affixed hereto. The Borough of Emerson has caused this instrument to be signed by its Mayor and attested to by its Borough Clerk and does cause its proper corporate seal to be affixed as of the date and year first above written.

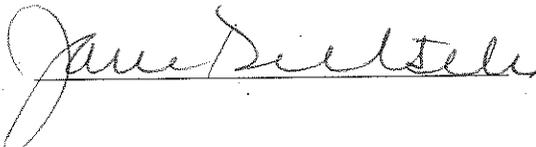
Witnessed or Attested to:


JANE DIETSCHÉ, Borough Clerk

BOROUGH OF EMERSON


LOUIS J. LAMATINA, Mayor

Witnessed or Attested to:



EMERSON REDEVELOPERS URBAN
RENEWAL, LLC

By: 
YAAKOV KLUGMANN, Managing Member

EXHIBIT A
REDEVELOPMENT AGREEMENT, DATED JUNE 27, 2016,
AMENDED OCTOBER 4, 2016 AND NOVEMBER 20, 2017

[ATTACHED]

[J005-0020/482895/1]

EXHIBIT B
REVISED EXHIBIT F (OFFSITE/ONSITE IMPROVEMENT SHARE) TO
REDEVELOPMENT AGREEMENT

DEVELOPER ESTIMATE

BOROUGH OF EMERSON, KINDERKAMACK ROAD PROJECT

CONSTRUCTION COSTS ON NORTHWEST CORNER, REQUIRED BY EMERSON

1. 42 Inch drainage line from Linwood Ave to Lincoln Blvd, 650 LF x \$225/LF	= \$146,250
2. Lincoln Ave drainage work, upsize pipes	= \$ 10,000
3. 3 New drainage chambers, 42 inch pipe, 3 X \$7,000	= \$ 21,000
STREETSCAPE ITEMS	
4. Expand Paver Sidewalks, 6 FT Add. X 900 FT = 5,400 SF = 600 SY X \$120/SY	= \$ 72,000
5. Streetscape Lighting, 9 Lights and wiring at \$7,000/each	= \$ 63,000
6. Street trees, 5 X \$500	= \$ 2,500
7. Amenities, benches, trash receptacles	= \$ 10,000
<i>Emerson Total</i>	<i>= \$ 324,750</i>
10% Contingency Say	\$ 357,000

Total Estimate **\$ 357,000**

Soft Costs, including surveying, engineering, attorney fees, property acquisition, utility layout, test pits, etc.
\$ 41,000

TOTAL **\$ 398,000**

EXHIBIT C
MEMBERS OF REDEVELOPER

Yaakov Klugmann	Accurate Builders & Developers 742 Ocean Avenue Lakewood, NJ 08701	51%
Giuseppi Forgione	JMF Properties 80 S. Jefferson Road, Suite 202 Whippany, NJ 07981	49%