

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **UEZ16-0322-6**

Date of Adoption **MARCH 22, 2016**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

JONES

SECONDED BY

COX

PRESENTED BY COUNCIL MEMBER

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, IN THE COUNTY OF ESSEX AUTHORIZING THE FIRST SOURCE AGREEMENT BY AND AMONG THE TOWNSHIP OF IRVINGTON, KAPWOOD, LLC AND HILLTOP PARTNERS MM, LLC

WHEREAS, pursuant to Resolution No. UEZ 12-0925-1, the Township of Irvington (the "Township") entered into a Redevelopment and Purchase and Sale Agreement with Kapwood, LLC dated October 12, 2012 (the "Original RDA"); and

WHEREAS, under the terms of the Original RDA, Kapwood, LLC (the "Original Redeveloper") was authorized to purchase the property commonly known as the Irvington General Hospital Site and identified as Block 324, Lot 1 on the tax map of the Township (the "Property") and build a mixed use project; and

WHEREAS, pursuant to Resolution No. UEZ 13-0213-3, the Township and the Original Redeveloper subsequently entered into a First Amendment to the Redevelopment and Purchase and Sale Agreement dated May 10, 2013 (the "First Amendment") and a Second Amendment to the Redevelopment and Purchase and Sale Agreement dated May 10, 2013 (the "Second Amendment", the Original RDA, First Amendment and Second Amendment, collectively referred to hereafter as the "RDA"); and

WHEREAS, the Township subsequently approved the assignment of the RDA from the Original Redeveloper to Hilltop Partners MM, LLC ("Hilltop Partners") together with the Original Redeveloper, and any successors and assigns, collectively, the "Employer" pursuant to Resolution No. UEZ 13-0409-08 whereby Hilltop Partners assumed all obligations of Original Redeveloper under the RDA as of May 14, 2013; and

WHEREAS, Hilltop Partners acquired the Property from the Township on December 26, 2013 and intends to complete certain improvements to the Property in a series of seven phases (as described in the RDA, with each individual portion of the Project being referenced to as a "Phase" and all Phases collectively referred to as the "Project"); and

WHEREAS, in accordance with Section 11.2 of the Original RDA, the Employer shall (i) make good faith efforts to employ and shall provide in its contracts with its contractors and subcontractors that they must make good faith efforts to employ residents of the Township in construction of the Project, (ii) participate in Township job fairs and utilize its central registry, (iii) meet with appropriate Township officials to determine the status of recruitment and training efforts and to plan future employment training and recruitment activities, (iv) employ not less than five (5) residents of the Township in the operation of the Project and (v) submit quarterly reports to the Township regarding compliance; and

WHEREAS, in accordance with Section 6 of the Second Amendment, Employer further covenants to comply with Township's First Source Employment Linkage Program codified in Chapter 15 of the Township's Municipal Code (the "First Source Obligation"); and

WHEREAS, in accordance with the First Source Obligation, the governing body of the Township has determined to enter into this First Source Agreement with the Employer (the "Agreement"), which Agreement specifies the rights and responsibilities of the Township and the Employer with respect to the First Source Obligation,

NOW THEREFORE, BE IT RESOLVED by the Municipal Council of the Township of Irvington, County of Essex, New Jersey as follows:

1. The aforementioned recitals and the Exhibit hereto are incorporated herein as though fully set forth at length.
2. The Township hereby authorizes the execution of the First Source Agreement in substantially the form attached hereto as Exhibit A. The Mayor is hereby authorized to execute the First Source Agreement in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary in consultation with the Township Corporate Counsel and Special Redevelopment Counsel.
3. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
4. A copy of this Resolution shall be available for public inspection at the offices of the Township.
5. This Resolution shall take immediately

RECORD OF COUNCIL VOTE

X = Indicates Vote N.V. = No Vote A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				JONES, 2ND VICEPRESIDENT	X			
COX	X				LYONS				X
HUDLEY	X				FREDERIC, PRESIDENT	X			
INMAN	X								

PRESIDENT OF COUNCIL [Signature] MUNICIPAL CLERK [Signature] DATE **MARCH 22, 2016**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK

DATE

MAR 22 2016

ADMINISTRATOR ☒ ASSESSOR ☐ BLDG ☐ CFO ☐ COLLECTOR ☐ COURT ☐ ENGINEER ☐ FIRE ☐ HEALTH ☐ HOUSING ☐ INIC ☐ JUDGE ☐ LEGAL ☒ LIBR ☐ LICEN ☐ MAYOR ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☐ DIR ☐ PUBLIC WORKS ☐ PURCHASING ☐ SEC ☐ PB/ZBA ☐ TRAFFIC ☐ ZONING ☐ OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): Redevelopment Council

Exhibit A

First Source Agreement

FIRST SOURCE AGREEMENT

This **FIRST SOURCE AGREEMENT** for recruitment, referral, and placement is entered into as of February ____, 2016 by and among the Township of Irvington, New Jersey (the "Township"), Kapwood, LLC (the "Original Redeveloper") and Hilltop Partners MM, LLC ("Hilltop Partners" together with the "Original Redeveloper", and any successors and assigns, collectively, the "Employer").

WITNESSETH:

WHEREAS, pursuant to Resolution No. UEZ 12-0925-10, the Township entered into a Redevelopment and Purchase and Sale Agreement with Kapwood, LLC dated October 12, 2012 (the "Original RDA"); and

WHEREAS, under the terms of the Original RDA, the Original Developer was authorized to purchase the property commonly known as the Irvington General Hospital Site located on Block 324 Lot 1 of the Town of Irvington, County of Essex, New Jersey (as more fully described on Exhibit A, the "Property") and build a mixed-use project; and

WHEREAS, pursuant to Resolution No. UEZ 13-0213-3, the Township and the Original Redeveloper subsequently entered into a First Amendment to Redevelopment and Purchase and Sale Agreement dated May 10, 2013 (the "First Amendment") and a Second Amendment to Redevelopment and Purchase and Sale Agreement dated May 10, 2013 (the "Second Amendment", the Original RDA, First Amendment and Second Amendment, collectively referred to herein as the "RDA"); and

WHEREAS, the Township subsequently approved the assignment of the RDA from the Original Redeveloper to Hilltop Partners pursuant to Resolution No. UEZ 13-0409-08 whereby Hilltop Partners assumed all obligations of Original Redeveloper under the RDA as of May 14, 2013; and

WHEREAS, Hilltop Partners acquired the Property from the Township on December 26, 2013 and intends to complete certain improvements to the Property in a series of seven phases (as described in Section 4 of the Second Amendment, with each individual portion of the Project being referred to as a "Phase", and all Phases collectively referred to as the "Project"); and

WHEREAS, in accordance with Section 11.2 of the Original RDA, the Employer shall (i) make good faith efforts to employ and shall provide in its contracts with its contractors and subcontractors that they must make good faith efforts to employ residents of the Township in the construction of the Project, (ii) participate in Township job fairs and utilize of its central registry (iii) meet with appropriate Township officials to determine the status of recruitment and training efforts and to plan future employment training and recruitment activities (iv) employ not less than five (5) residents of the Township in the operation of the Project and (v) submit quarterly reports to the Township regarding compliance; and

WHEREAS, in accordance with Section 6 of the Second Amendment, Employer further covenants to comply with Township's First Source Employment Linkage Program codified in Chapter 15 of the Township's Municipal Code (the "First Source Obligation"); and

WHEREAS, in accordance with the First Source Obligation, the Employer and the Township (the "Parties") are entering into this First Source Agreement (the "Agreement"),

NOW, THEREFORE in consideration of the promises and mutual covenants herein contained, the Parties hereto do hereby covenant and agree, each with the other, as follows:

I. GENERAL TERMS

- A. The Township wishes to assure continuing employment opportunities for economically disadvantaged and other residents of the Township with employers located within the Township. Toward that end, the Township will cause to be created a Central Applicant Registry (CAR) to inventory available jobs and match resident job applicants with those jobs.
- B. The Employer wishes to use the Township as a first source for recruitment and referral of new employees for demolition, construction, operating, security, maintenance and management personnel employed directly by the Employer, its contractors or subcontractors, to complete and maintain the Project, any such personnel permanently associated with the Employer's Project who are employed by any service, maintenance, security or management agent or independent contractor engaged by the Employer, whether such positions be full-time, part-time or seasonal.
- C. The Township will provide employment recruitment and referral services to the Employer subject to the limitations set out in this Agreement.
- D. This Agreement shall take effect immediately.

II. FIRST SOURCE EMPLOYMENT

- A. The Employer agrees to employ, and shall require in each of its contracts with contractors that they and their subcontractors must employ, residents of the Township in the demolition and construction of the Project. Thirty (30%) percent of billable construction laborer, administrative and clerical hours associated with the demolition and construction of the Project shall be provided by Township residents, consistent with market wages.
- B. The Employer agrees to employ, and shall require in each of its contracts with contractors that they and their subcontractors must employ, residents of the Township in the operation and maintenance of the Project following Completion of Construction for so long as a Financial Agreement remains in effect with respect to the Project. Thirty (30%) percent of billable administrative and clerical

hours associated with the Project shall be provided by Township residents, but shall in no instances be less than five (5).

- C. The Township shall designate a Township official to oversee and monitor the Entity's compliance with these First Source Employment requirements, at no cost to the Employer. The Employer will engage in and cooperate with efforts to recruit Township residents for all employment opportunities in connection with the Project, including participation in Township job fairs and utilization of a central employment registry, if the Township maintains such a registry, as further set forth below.
- D. The Employer agrees to meet periodically with the Township's designee at the designee's request, to discuss the status of the Employer's employment efforts and compliance with the requirements of this Agreement. All contracts entered into by the Employer for the construction of the Project shall contain appropriate language to effectuate this provision, and the Employer covenants to enforce its contracts with its contractors and subcontractors, if such parties are not in compliance with the requirements of this Agreement.

III. RECRUITMENT

- A. The Township and the Employer agree that for the purposes of this Agreement, "Covered Positions" include all Employer's job openings in the Township which are created as a result of internal promotions, terminations, and/or expansions within the Employer's workforce and any contractor or subcontractor's workforce arising out of the Project, which are normally filled by new employees.
- B. At least 15 business days prior to the announcing or advertising or notifying and private employment or referral agency of the availability of a Covered Position(s) (hereinafter the "Advance Notification Period"). The Employer will notify the Township of its need for new employees in Covered Positions. The Township shall refrain from the announcement or advertisement of such position(s) during the Advance Notification Period.
- C. This notification to the Township shall include, at a minimum, the job title, job description, number of employees needed, rate of pay, hours of work, and the hiring date for each type of position to be filled. The job description shall include the minimum qualifications for the position, in quantifiable and objective terms in order that the Township Central Applicant Registry (CAR) can refer qualified individuals to the Employer.
- D. Job openings filled through internal promotions from within Employer's workforce shall not be referred to Township but the job vacated by the promoted/transferred workers will be referred if the vacancy arises out of the Project with the Township.

IV. REFERRAL

- A. The CAR will pre-screen applicants in accordance with the qualifications listed by the Employer, but will make no representation as to applicants abilities or qualifications.
- B. The CAR will refer qualified applicants to the Employer in response to the notification of the need for new employees. Such referral shall be in accordance with a scheduled agreed upon by the CAR, and the Employer.
- C. The CAR shall attempt to refer three (3) qualified applicants for each position listed. In the event that the CAR believes that it is unable to refer qualified candidates for such position(s) within the Advance Notice Period, it shall so inform the Employer, thereby waiving the obligation of the Employer to refrain from further announcement or advertisement to fill such position during the balance of the Advance Notice Period.
- D. The Employer shall interview qualified applicants referred by the CAR and shall assist the CAR in its pre-screening process by providing feedback on applicants referred by the CAR.
- E. At the end of the Advance Notice Period, the Employer may agree to enlist the assistance of the Township's private recruitment agencies by allowing the CAR to release the job descriptions to Private Employment Agencies located within the Township. Unless requested by the Employer, the CAR shall distribute the job descriptions simultaneously to each Township based Private Employment Agency which registers with the CAR.

V. PLACEMENT

- A. The Employer shall make all decisions on hiring new employees. Nothing contained herein shall be construed to require the Employer or any service, maintenance, security or management agent or independent contractor engaged by the Employer to hire any individual candidate referred by the CAR.
- B. Nothing contained herein shall prevent the Employer from filling job vacancies or newly created positions by transfer or promotion from its existing staff or from a file of qualified applicants maintained by the Employer without having complied with the first-source procedures. Provided, however, that the Employer shall give consideration first to those applicants in the aforesaid file or qualified applicants previously referred by the CAR and/or those other applicants who are Township residents.
- C. The Employer shall report its decision to the CAR to hire or not hire individuals referred by the CAR.

- D. After the Employer has selected its employees, the Township shall not be responsible for the employee's actions and the Employer hereby releases the Township from any liability from the employee's actions.

VI. CONTROLLING REGULATIONS AND LAW

- A. If this agreement conflicts with any federal, state or local laws or regulations, the law or regulations shall prevail. If this agreement conflicts with any collective bargaining agreement or pre-existing written personnel policy, the collective bargaining agreement or pre-existing written personnel policy shall prevail. To the extent possible under such laws, regulations, collective bargaining agreements or personnel policies, the Employer agrees to follow the procedures outlined in this agreement.
- B. The Employer will not discriminate against any applicant for employment because of race, religion, age, handicap, color, sex, national origin, citizenship or political affiliation.
- C. The Employer shall incorporate the provisions of this First Source Agreement in all contracts, agreements and purchase orders for labor with any service, maintenance, security management agent or independent contractor engaged by the Employer whose personnel will be assigned to the Employer's Project and shall obligate such independent contractor to comply with the first source procedures described herein.

VII. ASSIGNMENT, MODIFICATION AND TERMINATION

- A. Employer agrees that this Agreement is binding on its successors and/or assigns until the termination of the underlying contract.
- B. The Township and the Employer may mutually agree to modify this Agreement in writing in order to improve the working relationship described herein.
- C. The Township shall be entitled to any damages set forth in the First Source Obligations, as the same may be amended from time to time, for any Employer violation of this Agreement.

VIII. CENTRAL APPLICANT REGISTRY

The (CAR) is [], located at 1 Civic Square, Irvington, NJ 07111. Its phone number is [].

ORIGINAL REDEVELOPER

SIGNATURE: _____

PRINT NAME:

DATE:

HILLTOP PARTNERS

SIGNATURE: _____

PRINT NAME:

DATE:

TOWNSHIP

SIGNATURE: _____

PRINT NAME:

DATE: