

Resolution No. 2017-05-09-1103

STOCKTON CITY COUNCIL

RESOLUTION AUTHORIZING AN AMENDMENT TO THE DOWNTOWN INFRASTRUCTURE INFILL INCENTIVE REIMBURSEMENT AGREEMENT WITH OPEN WINDOW PROJECT, LLC

The Stockton City Council identified economic development and fiscal sustainability as two key goals for the City; and

On July 7, 2015, the Council approved Resolution No. 2015-07-07-1502 adopting the Downtown Infrastructure Infill Incentive Program to encourage infill development and defray public infrastructure costs in Downtown Stockton; and

In February 2016, the Council approved a Master Development Plan and Development Agreement with Open Window Project, LLC for the Open Window Project ("Project") consisting of market-rate housing and retail/commercial space; and

Phase I of the Project consist of approximately 200 residential units, of which will include 150 market-rate housing units, and approximately 92,000 s.f. of commercial/retail space; and

On October 18, 2016, the Council approved a Downtown Infrastructure Infill Incentive Reimbursement Agreement with Open Window Project, LLC, of up to \$3.8 million to assist with Phase I of the Project; and

Open Window Project, LLC is in the process of securing financing to begin construction of Phase I of the Project and has requested an Amendment to the Downtown Infrastructure Infill Incentive Reimbursement Agreement in order for the City to release \$760,000 of funding committed under the Agreement; and

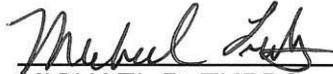
In return for the City's payment of \$760,000, Open Window Project, LLC, has agreed to allow that a lien be placed on seven properties it owns as security until such time that financing has been secured or building permits have been issued for both the public infrastructure improvements and Phase I of the Project; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Council hereby authorizes the City Manager to execute an Amendment to the Downtown Infrastructure Infill Incentive Reimbursement Agreement between the City of Stockton and Open Window Project, LLC, herein incorporated as Exhibit 1.

2. The City Manager is hereby authorized and directed to take all necessary and appropriate action to carry out the purpose and intent of this Resolution.

PASSED, APPROVED, and ADOPTED May 9, 2017.



MICHAEL D. TUBBS
Mayor of the City of Stockton

ATTEST:



BONNIE PAIGE
City Clerk of the City of Stockton

**AMENDMENT TO THE DOWNTOWN INFRASTRUCTURE INFILL INCENTIVE
REIMBURSEMENT AGREEMENT**

OPEN WINDOW PROJECT, LLC

This Amendment (the "Amendment") is entered into as of _____
by and between Open Window Project, LLC, a California limited liability company (the
"DEVELOPER") and the City of Stockton, a municipal corporation (the "CITY").

RECITALS

- A. In February 2016, CITY approved a Master Development Plan (MDP) and Development Agreement for the Open Window Project (Project), which encompasses approximately 15 square blocks within the Downtown Stockton core.
- B. Phase I of the Project consists of approximately 200 residential units and 92,000 s.f. of commercial space.
- C. In July 2015, the City Council approved a Downtown Infrastructure Infill Incentive Program to support infill development in the downtown core.
- D. On November 29, 2016, DEVELOPER entered into a Downtown Infrastructure Infill Incentive Reimbursement Agreement with CITY for up to \$3.8 million to assist with Phase I of the Project.
- E. DEVELOPER is in the process of securing financing to begin construction of Phase I and has requested that the CITY release \$760,000 of funding committed under the Downtown Infrastructure Infill Incentive Reimbursement Agreement and has agreed to provide real property as security for the release of funds.

AMENDMENT

The Downtown Infrastructure Infill Incentive Reimbursement Agreement is hereby amended as follows:

- 1. The CITY agrees to amend Section 2.C.i and 2.C.ii to allow for early payment of the first 20% of the \$3.8 million, which equals \$760,000, without the DEVELOPER first obtaining building permits for the public infrastructure improvements and Phase I of the Project.
- 2. In return for the release of the \$760,000, DEVELOPER agrees to allow the CITY to place a lien on the following seven (7) properties owned by the DEVELOPER as security. Together, these properties are appraised at \$1.85 million.
 - a. 510 East Miner Avenue
 - b. 532 East Miner Avenue
 - c. 544 East Miner Avenue
 - d. 221 North American Street
 - e. 617 East Channel Street
 - f. 621 East Channel Street
 - g. 210 North American Street

EXHIBIT 1

3. Said lien will remain in place until such time that the DEVELOPER has provided written verification from the lender, acceptable to the CITY, that it has secured financing for Phase I of the Project OR that building permits for both the public infrastructure improvements and Phase I has been issued, whichever occurs first.

4. All other terms and provisions of the original Downtown Infrastructure Infill Incentive Reimbursement Agreement are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the CITY and DEVELOPER have executed this Amendment as of the date first above written.

ATTEST:

"CITY"

BONNIE PAIGE
CITY CLERK

CITY OF STOCKTON, a municipal
corporation

BY _____

BY _____

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

"DEVELOPER"

BY _____

OPEN WINDOW PROJECT, LLC, a
California limited liability company

By _____