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COMP: BW

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
09/26/2016 09:52:28.00



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MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (the "Memorandum"), dated as of the last date set forth on the signature page hereto, is made by and between South 72nd Street Associates, LLC, a Delaware limited liability company ("Seller"), and Outlook Properties, LLC, a Nebraska limited liability company ("Purchaser").

WHEREAS, Seller and Purchaser previously entered into that certain (i) Purchase and Sale Agreement, dated as of May 18, 2012, as amended by First Amendment dated August 15, 2012 and Second Amendment dated November, 2012 (the "2012 Agreement"), and (ii) Purchase and Sale Agreement, dated May 13, 2016, (the "2016 Agreement");

WHEREAS, under the terms of the 2012 Agreement and 2016 Agreement, Purchaser has previously acquired certain real estate from Seller, all as described on Exhibit "A" attached hereto and located in the City of Omaha, Douglas County, Nebraska (the "Real Property"); and

WHEREAS, Purchaser agreed to execute a recordable document to memorialize certain provisions from the 2012 Agreement and 2016 Agreement, which provisions are to survive for a certain period of time, and Purchaser and Seller each desire to enter into this Memorandum to fulfill such provisions of the 2012 Agreement and 2016 Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Purchaser and Seller each hereby agree as follows:

1. Definitions. All capitalized terms set forth in this Memorandum which are not otherwise defined herein shall have the meanings as set forth in the 2012 Agreement and 2016 Agreement, as applicable.
2. Notice of Terms. The 2012 Agreement and 2016 Agreement each contained certain representations, warranties, covenants and indemnities which survived for a certain period after Purchasers' closing on the purchase of the Real Property from Seller. Such representations, warranties, covenants and indemnities which remain effective at all times during the term of the Redevelopment Promissory Note and run with the Real Property are as follows:
 - a. Purchaser, as owner, shall remain a for profit entity and shall not convert to a nonprofit/tax exempt entity;

b. Purchaser will not assign, convey or otherwise transfer its ownership interest in the Property to a tax exempt entity;

c. Purchaser will not take any affirmative action to cause a default under the Covenants or Sections 3.2 and/or 3.5 of that certain Redevelopment Agreement dated as of September 25, 2008, by and between the City of Omaha and Seller;

d. Purchaser will not claim tax exempt status through the purchasing entity, through Outlook Nebraska, Inc. or any other entity or take any other affirmative action that would cause the termination of or diminution of Seller's TIF rights to the Real Property;

e. In the event of any breach by Purchaser of the matters set forth in Sections 2(a) through 2(d) above, and such breach causes a termination or diminution of Seller's TIF rights or any TIF amount applicable to the Real Property, or causes Seller to incur any other costs, expenses or liabilities caused by Purchaser's breach of such representations, warranties and covenants, Purchaser shall pay Seller the TIF amount that Seller is entitled to under the TIF Agreements (which Seller does not otherwise receive from the City as a result of such breach and any other costs and expenses incurred by Seller in connection therewith, subject to a certain offset as more particularly set forth in the 2012 Agreement and 2016 Agreement); and

f. Purchaser shall indemnify, defend and hold Seller harmless from and against any loss, liability, claims, damages, demands, costs or expenses in any way arising out of or in connection with Purchaser's breach of the representations, warranties and covenants contained in Section 8 of the Second Amendment to the 2012 Agreement and Section 9.22 of the 2016 Agreement.

3. Effect of Memorandum. Purchaser and Seller each acknowledge and agree that the terms of this Memorandum are a summary of certain representations, warranties, covenants and indemnities of Purchaser under the terms of Section 8 of the Second Amendment to the 2012 Agreement and Section 9.22 of the 2016 Agreement, and this Memorandum does not amend, revise or restate in any manner whatsoever such representations, warranties, covenants or indemnities but is meant solely to give public notice of the same.

4. Termination. The terms of this Memorandum shall automatically terminate without further action by either Seller or Purchaser upon the date of the expiration of the term of the Redevelopment Promissory Note, as it may be extended. Although not required for termination of this Memorandum, upon request of Purchaser, Seller shall execute a recordable document, in a form provided by Purchaser, confirming the expiration of the term of the Redevelopment Promissory Note, as extended, and/or the termination of this Memorandum Agreement.

5. Information: Notices. For any additional information about the 2012 Agreement and/or 2016 Agreement and the representations, warranties, covenants and indemnities set forth therein which run with the Real Property, requests can be made from the Purchaser or Seller at the following addresses:

Seller: South 72nd Street Associates, LLC
c/o Mountain Organic Farms, LLC
1099 18th Street, Suite 2900
Denver, CO 80202

Purchaser: Outlook Properties, LLC
4125 S. 72nd Street
Omaha, NE 68127
Attn: Tim Hurley
Telephone: 402-614-3331, Ext. 217

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IN WITNESS WHEREOF, Purchaser and Seller have caused this Memorandum to be executed as of the last date set forth below.

South 72nd Street Associates, LLC, a Delaware limited liability company

By: Alliance Real Estate Value Fund III, LLC
Its: Manager

By: AVF Management, LLC
Its: Managing Member

By: *David E Ramsay*
Name: David Ramsay
Managing Partner – General Counsel

Outlook Properties, LLC, a Nebraska limited liability company

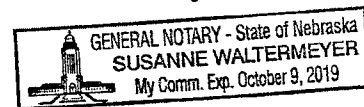
By: *[Signature]*
Name: Eric Stueckrath
President/CEO

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on September 21, 2016 by Eric Stueckrath, President/CEO of Outlook Properties, LLC, a Nebraska limited liability company on behalf of the limited liability company.


Susanne Waltermeyer
Notary Public

My Commission expires: Oct 9, 2019



STATE OF COLORADO)
) SS.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me on September 27th, 2016 by David Ramsay, Managing Partner –General Counsel of AVF Management, LLC, as managing member of Alliance Real Estate Value Fund III, LLC, as manager of 72nd Street Partners, LLC as managing member of South 72nd Street Associates, LLC, a Delaware limited liability company.



Notary Public

My Commission expires: 2/29/2020

LIESL CLARKSON
NOTARY PUBLIC
STATE OF COLORADO
Notary ID 20044004687
My Commission Expires 02/29/2020

EXHIBIT "A"

REAL PROPERTY

47-08429

Lot 1, Crown Industrial Park Replat 1, an Addition to the City of Omaha in Douglas County, Nebraska;

TOGETHER WITH a perpetual non-exclusive easement for detention basin access and maintenance as set out in Declaration of Drainage and Water Detention Easement filed March 3, 2010, as Instrument No. 2010-018623 in the Office of the Register of Deeds of Douglas County, Nebraska.

Lot 1, Crown Industrial Park, an Addition to the City of Omaha in Douglas County, Nebraska; and

47-08427

TOGETHER WITH a perpetual non-exclusive easement for access as set out in Declaration of Access Easement filed March 3, 2010 as Instrument No. 2010-018622 in the Office of the Register of Deeds of Douglas County, Nebraska; and

TOGETHER WITH a perpetual non-exclusive easement for detention basin access and maintenance as set out in Declaration of Drainage and Water Detention Easement filed March 3, 2010 as Instrument No. 2010-018623 in the Office of the Register of Deeds of Douglas County, Nebraska.