

RESOLUTION No. 2989

A RESOLUTION OF THE CITY OF SALISBURY, MARYLAND AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH FIRST MOVE PROPERTIES, LLC TO ALLOW THE USE OF SOIL LOCATED AT THE CITY'S WASTEWATER TREATMENT PLANT FOR THE REDEVELOPMENT OF 130 EAST MAIN STREET, 132 EAST MAIN STREET AND 144 EAST MAIN STREET.

WHEREAS, the City seeks to encourage development and redevelopment in the Central Business District, the Riverfront Redevelopment Area and the Enterprise Zone; and

WHEREAS, 130 East Main Street, 132 East Main Street and 144 East Main Street are located in the Central Business District; and

WHEREAS, the purpose of this agreement is to share resources to assist in the development of these parcels; and

WHEREAS, the City has excess soil stockpiled at the Wastewater Treatment Plant; and

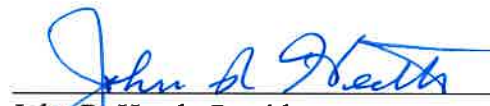
WHEREAS, the City desires to enter into the attached Memorandum of Understanding to specify the requirements for the owner/developer to have access to the City's stockpiled soil.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF SALISBURY, MARYLAND, that the Mayor is authorized to sign and enter into the attached Memorandum of Understanding with First Move Properties, LLC.

THIS RESOLUTION was duly passed at a meeting of the Council of the City of Salisbury held on January 13, 2020, and is to become effective immediately upon adoption.

ATTEST:


Kimberly R. Nichols, City Clerk


John R. Heath, President
Salisbury City Council

APPROVED BY ME THIS:

21st day of JANUARY, 2020


Jacob R. Day, Mayor

AGREEMENT

AN AGREEMENT BETWEEN THE "PARTIES"; FIRST MOVE PROPERTIES, LLC, "DEVELOPER", AND THE CITY OF SALISBURY, "CITY";

WHEREAS, CITY seeks to encourage development and redevelopment in the Central Business District, the Riverfront Redevelopment Area and the Enterprise Zone; and

WHEREAS, to support the redevelopment of said areas, CITY has made available soil located at the Wastewater Treatment Plant at no charge to be used exclusively at the property described herein as 130 East Main Street, 132 East Main Street and 144 East Main Street in Salisbury, Maryland.

NOW, THEREFORE, DEVELOPER agrees to all of the provisions set forth herein for use of the soil.

DEVELOPER will load on site, and transport the soil to be used exclusively at the property described herein.

DEVELOPER will utilize his own equipment to load and transport the soil.

DEVELOPER may leave equipment at the WWTP at its own risk.

DEVELOPER may access the soil stockpile at the WWTP between the hours of 8 am and 3 pm on weekdays only.

DEVELOPER will adhere to all regulations governing sediment and erosion control measures.

DEVELOPER will begin soil pickup no later than June 1, 2020, will check-in each day with City personnel at the gate, and will record each load removed and the amount of soil removed.

DEVELOPER will complete soil transport and commence site work no later than December 31, 2020.

DEVELOPER will obtain a certificate of occupancy no later than August 15, 2021.

Failure to meet the prescribed timeline may result in a charge for the soil at a cost of \$65 per square yard, payable to the City of Salisbury no later than 30 days after missing any one or more of the deadlines.

DEVELOPER takes and accepts all soil "AS IS." CITY makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the soil provided, including any environmental representations or guarantees of any kind that the soil is adequate for DEVELOPER'S needs. DEVELOPER is not entitled to any payment for any losses or damages tied in any way to the soil.

DEVELOPER shall indemnify, defend and save harmless CITY and its officers, employees and agents from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including interest and attorneys' fees, in any way

connected with any injury to any person or damage to any property or any loss to CITY or third parties occasioned in any way with the soil, including by hazardous substances originating or tied to the soil or its use by DEVELOPER. This indemnity specifically includes the obligation of DEVELOPER to perform any remedial or other activities required or ordered by any properly empowered government official, or otherwise reasonably necessary to avoid injury or liability to any person or to prevent the spread of pollution, originating thereon. DEVELOPER shall perform all such work in its own name in accordance with applicable law, as herein defined.

The PARTIES may terminate this agreement at any time by providing written notice of said termination.

If terminated by DEVELOPER, DEVELOPER will pay City for all soils removed.

NOW, THEREFORE, BE IT RESOLVED that the PARTIES agree to the above provisions of Memorandum of Understanding.

ATTEST:

Developer

City of Salisbury

Nick Simpson

Date

Jacob R. Day
Mayor

Date



City of
Salisbury
Jacob R. Day, Mayor

To: Julia Glanz, City Administrator
From: Amanda H. Pollack, P.E., Director of Infrastructure and Development
Date: December 5, 2019
Re: Resolution – First Move Properties MOU for soils

AP

Attached is a letter from First Move Properties, LLC dated November 5, 2019 requesting to use excess soil for redevelopment of a property. Attached is the Memorandum of Understanding between the City and First Move Properties, LLC, the developers of 130, 132 and 144 East Main Street. The MOU is for the City to provide excess soil to be used at the proposed development. A soil stockpile was created from the construction at the Wastewater Treatment Plant. The soil is not needed at the WWTP. The soil would provide benefit to the development. Since the City seeks to encourage development and redevelopment in the Central Business District, we recommended providing excess fill to First Move Properties, LLC per the terms of the MOU.

The soil stockpile may also be used by the City for our own purposes. Any soil remaining could be offered to other developers and projects as appropriate.

Unless you or the Mayor has further questions, please forward a copy of this memo, Resolution and MOU to the City Council.

FIRST MOVE PROPERTIES, LLC

**P.O. Box 4365
Salisbury, MD 21803**

November 5, 2019

City of Salisbury, Maryland
Department of Infrastructure & Development
Attn: Amanda H. Pollack, P.E., Director (apollack@salisbury.md)
125 N. Division Street, Room 202
Salisbury, Maryland 21801

**Re: *First Move Properties, LLC's Request for Soil;
Redevelopment of 144 E. Main Street, Salisbury, Maryland 21801 (Map 0107, Grid
0015, Parcel 858 and 878), 130 E. Main Street, Salisbury, Maryland 21801 (Map
0107, Grid 0015, Parcel 0855), and 132 E. Main Street, Salisbury, Maryland 21801
(Map 0107, Grid 0015, Parcel 0856). Referred to collectively as the "Property"***

Dear Ms. Pollack:

On behalf of First Move Properties, LLC ("First Move"), please accept this letter as First Move's formal request to the City of Salisbury for excess soil located at the Wastewater Treatment Plant for First Move's redevelopment the Property. First Move will provide all necessary equipment to load and transport the soil and will exclusively use the material at the Property.

First Move proposes to begin pickup of the soil no later than June 1, 2020 and complete the transport no later than December 31, 2020 and expects to receive a Certificate of Occupancy for the redevelopment of the Property by August 15, 2021.

During the transportation process First Move representatives will check-in each day with city personnel at the Wastewater Treatment Plant and will record each load removed to ensure no more than 3,200 tons of soil is transported to the Property.

If City staff has any questions or needs additional information regarding the matters addressed in this correspondence, please do not hesitate to contact me. Thank you for your time and consideration of this request.

Sincerely,



Nicholas Simpson,
First Move Properties, LLC