

RESOLUTION NO. R15-670

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF STOCKBRIDGE AUTHORIZING, INTER ALIA, THE EXECUTION OF A SETTLEMENT AGREEMENT WITH THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF STOCKBRIDGE.

WHEREAS, the City Council of the City of Stockbridge, Georgia (the “City”) desires to enter a settlement agreement with the Downtown Development Authority of the City of Stockbridge with respect to the following matters: : City of Stockbridge (Georgia) Downtown Development Authority a/k/a Downtown Development Authority of Stockbridge v. City of Stockbridge (Georgia), et al., Superior Court of Henry County, Civil Action File No.: 14-CV-0621-WC; and City of Stockbridge, Georgia, et al. v. Thomas Williams, Jr., individually, et al., Superior Court of Henry County, Civil Action File No.: 14-CV-0716-WC;

WHEREAS, an agreement (the “Agreement”) has been prepared for the City Council to approve;

WHEREAS, it is proposed that the City Council authorize the Mayor of the City to sign the Agreement on behalf of the City; and

WHEREAS, attached hereto for presentment to and approval by the City Council as Exhibit “A” is a copy of the Agreement;

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section I. Authorization of Execution of the Agreement. The form, terms and provisions of the Agreement presented to this meeting are hereby approved, and all of the terms and provisions thereof are hereby incorporated herein by this reference as if the Agreement was set out in this Resolution in its entirety. The Mayor or Mayor Pro-tempore of the City is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as may be deemed necessary by the persons executing the same, upon advice of counsel, to accomplish the purposes of the transaction contemplated therein and in this Resolution and shall not be inconsistent with or contrary to such purposes.

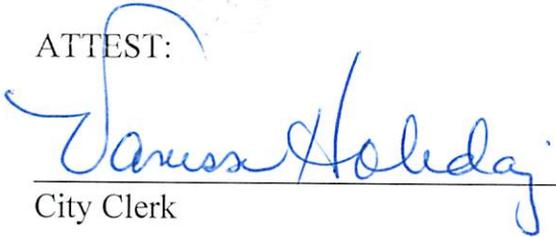
Section II. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the Agreement shall be deemed to be a stipulation, obligation or agreement of any council member, officer, agent or employee of the City in his individual capacity, and no such officer, director, agent or employee shall be subject to personal liability or accountability by reason of the execution of the Agreement.

Section III. General Authority. From and after the execution and delivery of the documents hereinabove authorized, the Mayor of the City and the proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the

SO RESOLVED this 30th day of October, 2015.


Alphonso Thomas
Mayor Pro Tem

ATTEST:


City Clerk

(THE SEAL OF THE CITY OF
STOCKBRIDGE, GEORGIA)

provisions of said documents as executed and are further authorized to take any and all further actions and execute and deliver any and all other documents and certificates as may be necessary or desirable in connection with the Agreement. In the event that Mayor is not available to execute the documents herein authorized, the Mayor Pro-tempore is hereby authorized to execute such documents.

Section IV. Actions Ratified, Approved and Confirmed. All acts and doings of the officers of the City which are in conformity with the purposes and intents of this Resolution and in the furtherance of the execution, delivery and performance of the Agreement shall be, and the same hereby are, in all respects ratified, approved and confirmed.

Section V. Severability of Invalid Provisions. If any one or more of the agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof.

Section VI. Repealing Clause. All resolutions or parts thereof of the City in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

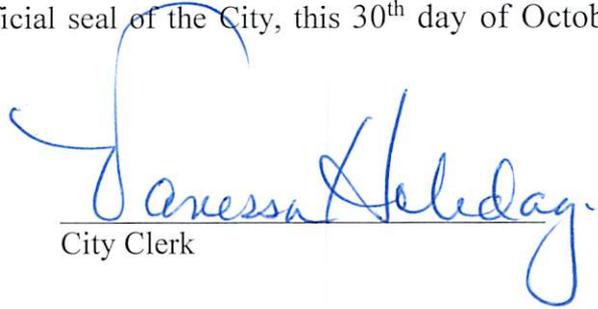
Section VII. Effective Date. This Resolution shall take effect immediately upon its adoption.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

CLERK'S CERTIFICATE

The undersigned City Clerk of the City of Stockbridge, Georgia (the "City"), DOES HEREBY CERTIFY that the foregoing pages of typewritten matter pertaining to the authorization of a settlement agreement with the City of Atlanta constitute a true and correct copy of the Resolution adopted on October 30, 2015, by the Council of the City of Stockbridge, Georgia in a meeting duly called and assembled, which was open to the public, and that the original of said Resolution appears of record in the Minute Book of the City which is in the undersigned's custody and control.

WITNESS my hand and the official seal of the City, this 30th day of October, 2015.



City Clerk

(SEAL)

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

For in consideration of the mutual promises and covenants herein contained and the parties' agreement to settle the within matter without further action, the receipt and sufficiency of which are hereby acknowledged, the **DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF STOCKBRIDGE**, a public body corporate and politic established pursuant to the Downtown Development Authorities Law of the State of Georgia, (A/K/A "City of Stockbridge, (Georgia) Downtown Development Authority" or "The City of Stockbridge Downtown Development Authority" and hereinafter collectively called "SDDA"); and the **CITY OF STOCKBRIDGE**, a municipal corporation of the State of Georgia, (hereinafter referred to as "City") (hereinafter collectively referred to as "Parties") hereby mutually release and forever discharge each other from any and all claims, demands, warranties, liabilities, losses, judgments, actions, causes of action, suits, or liability of any kind or of any nature, including but not limited to attorney's fees and punitive damages, that have originally occurred or that may arise or occur at any time in the future based in whole or any part upon any facts, conduct, activities, transactions, events, or occurrences, known or unknown, which have or allegedly have existed, occurred, happened, arisen, or transpired from the beginning of time to the date of this Mutual Release and Settlement Agreement, including the execution hereof, and involved in the claims that were made or could have been made in connection with the following matters: City of Stockbridge (Georgia) Downtown Development Authority a/k/a Downtown Development Authority of Stockbridge v. City of Stockbridge (Georgia), et al., Superior Court of Henry County, Civil Action File No.: 14-CV-0621-WC; and City of Stockbridge, Georgia, et al. v. Thomas Williams, Jr., individually, et al., Superior Court of Henry County, Civil Action File No.: 14-CV-0716-WC.

In further consideration of said Mutual Release and Settlement Agreement, the parties hereto do hereby agree, represent and warrant, recognize and approve the considerations having been lawfully passed as required by law, and pursuant to the authority of O.C.G.A. § 36-42-8(a)(10), that:

1. The City shall dismiss, with prejudice (or if necessary submit a joint motion to dismiss with the SDDA) its claims against the SDDA and its current board members, Raoul Clarke, Carlos Smith, Mildred Reed, Renee Shaw, Houston E. Nelson, III and Robin Buschman (hereinafter collectively referred to as the "Board Members") in the case of City

of Stockbridge, Georgia, et al. v. Thomas Williams, Jr., individually, et al., in the Superior Court of Henry County, Civil Action File Number 14-CV-0716-WC, within seven (7) business days of the date of the transfer of property and assets by the SDDA to the City pursuant to Paragraph 2 and 4 below.

2. The SDDA shall -quitclaim to the City all real property deeded to the SDDA by the City and all real property acquired by the SDDA utilizing moneys obtained from the City including but not necessarily limited to the following parcels of real property and assets “AS IS”, and the City shall be solely responsible for any and all loan payments, lease payments, taxes, insurance, maintenance, and repairs on said real property:

- a. Multi-plex building at 146 Burke Street Stockbridge, Georgia 30281 (parcel S18-03010000), subject to the City and Tenant accepting a transfer and assignment of the Tenant’s current lease of said premises and the SDDA being fully discharged of all responsibilities under the terms of said lease;
- b. Ted Strickland Community Center at 132 Berry Street, Stockbridge, Georgia 30281 (parcel S18-06015000 and parcel S18-06012000);
- c. Old Administration Building for the Merle Manders Center at 119 Davis Road, Stockbridge, Georgia 30281 (parcel S17-02009000);
- d. Old Fire Station at 130 Berry Street, Stockbridge, Georgia 30281;
- e. Old Police Station at 131 Burke Street, Stockbridge, Georgia 30281;
- f. The property north of the First Baptist Church, including 110, 112, 114 North Lee Street, Stockbridge, Georgia 30281 (parcel S26-02002000, parcel S26-02003000, and parcel S26-02004000), and the associated 4.81 acres;
- g. 135 North Park Place, Stockbridge, Georgia 30281 (parcel 032-01030016);
- h. 175 North Park Trail, Stockbridge, Georgia 30281 (parcel 032-01030031);
- i. Lots 4B and 5 North Park Trail, Stockbridge, Georgia 30281 (parcel 032-01030028);
- j. 170 North Park Trail, Stockbridge, Georgia 30281 (parcel 032-01032000);
- k. 185 North Park Trail, Stockbridge, Georgia 30281 (parcel 032-01033000);
- l. North Park Court, Stockbridge, Georgia 30281 (parcel 032-01030015);
- m. The Moss Properties, including 4482 North Henry Boulevard, Stockbridge, Georgia 30281 (parcel S26-01014000), 4498 North Henry Boulevard,

Stockbridge, Georgia 30281 (parcel S26-01015000), and the three (3) additional Moss parcels not identified above;

- n. 2.35 acres recorded in Book 14323, Page 118-119, of the Henry County, Georgia records;
- o. 2.98 acres recorded in Book 13424, Page 248-249, of the Henry County, Georgia records;
- p. 1250 Eagles Landing Parkway, Stockbridge, Georgia 30281 as recorded in Book 13427, Page 97-100, of the Henry County, Georgia records; and
- q. All other real property, personal property, tangible property, and intangible property currently in the possession of the SDDA, except as provided herein.

The provisions contained herein are contingent upon the City preparing the necessary quitclaim deeds for execution and receipt of the Court's approval as defined in Paragraph 16 herein.

3. The SDDA may but shall not be required retain the following parcels of real property "AS IS", and the SDDA shall be solely responsible for any and all loan payments, lease payments, taxes, insurance, maintenance, and repairs on said real property: the parcel donated by Killlearn, Inc. as recorded in Book 13423, Page 124-125, of the Henry County, Georgia records.

4. The December 30, 2013 Intergovernmental Contract and all other agreements and contracts entered into between the Parties, as defined above, prior to March 5, 2015 (including any loans or loan agreements) shall be deemed null and void and the SDDA shall have no outstanding loan obligations to the City. All other agreements or contracts entered into by the SDDA and all obligations of the SDDA contained therein, to the extent found to be valid, binding and/or legally enforceable are hereby assigned to the City. In addition to the properties identified in Paragraph 2 above, the SDDA shall return to the City all remaining assets including, but not limited to, all cash, securities, and bank funds in the possession of the SDDA and given to the SDDA pursuant to any agreement between the Parties. Said return of funds shall include any remaining funds from loan payments, or return of funds, the SDDA may receive in the future from third parties, which were originally obtained from the City. SDDA will provide an accounting of all assets, expenditures, and income of the SDDA to the City upon the City's reasonable

request. SDDA agrees that it will cooperate in good faith in any action or litigation involving the SDDA by providing truthful testimony and evidence pertaining to the subject matter of this Agreement. Notwithstanding anything herein to the contrary, the SDDA shall retain Thirty-Five Thousand Dollars and 00/100 (\$35,000.00) to satisfy its routine administrative and legal expenses.

5. The City agrees to indemnify and hold harmless the SDDA and the Board Members, in their individual and official capacities, and their future successors in office from any and all claims, demands, warranties, liabilities, losses, judgments, actions, causes of action, suits, or liability of any kind or of any nature, including but not limited to attorney's fees and punitive damages, that have originally occurred or that may arise or occur at any time in the future based in whole or any part upon any facts, conduct, activities, transactions, events, or occurrences, known or unknown, which have or allegedly have existed, occurred, happened, arisen, or transpired from the beginning of time to the date of this Mutual Release and Settlement Agreement, including the execution hereof. The indemnification and hold harmless provision hereof include the assumption by the City of the defense of the SDDA and, the Board Members, in their individual and official capacities, and their future successors in office.

6. The City and SDDA shall meet in good faith prior to January, 2016 to discuss and/or negotiate the following:

- a. The development of a strategic economic development plan for the SDDA.
- b. An annual operating budget to be appropriate to the SDDA by the City for the 2016 fiscal year and future years.
- c. The expansion of the SDDA's designated geographic area to include some of the area where the properties identified in Paragraph 2 are located.
- d. If an expansion is agreed to, the negotiation of operating agreement, real property leases or transfers of certain property identified in Paragraph 2 including, but not limited to, 135 north Park Place to allow the SDDA to operate, maintain and/or market such for economic development purposes.

7. Each party shall assume their own attorney's fees, costs, and expenses in connection with the above-referenced matters, except as specifically provided herein.

8. This Mutual Release and Settlement Agreement shall be construed and interpreted in accordance with Georgia Law.

9. The undersigned parties have read and now understand each and every provision of this Mutual Release and Settlement Agreement and reviewed a true copy prior to execution of the original of this Mutual Release and Settlement Agreement.

10. Nothing contained in this Mutual Release and Settlement Agreement is or shall be construed or deemed to be an admission of liability by the Parties, as defined above, or an acknowledgment by the Parties, as defined above, that their conduct was wrongful, unlawful, negligent or violative of any state, federal or local regulation, or any common law.

11. No claim or release hereunder has been assigned, expressly or impliedly or by operation of law, and that all claims released herein are the undersigned, which have the sole authority to release them.

12. This Mutual Release and Settlement Agreement is fully effective upon delivery, and is not dependent upon and may not be defeated by any further performance or non-performance of any obligations, conditions, covenants, promises, warranties or similar undertakings to be performed or not to be performed in the future, the breach of any such duties give rise only to a cause of action for that breach and in no way reinstating the claims released under this Mutual Release and Settlement Agreement.

13. Time is of the essence and any obligation of the parties hereto shall survive execution and delivery hereof.

14. Each party hereto recognizes that this Agreement results from a negotiation process between the parties, each of which had the opportunity to be represented by counsel and to contribute to the terms and drafting of this Agreement. Additionally, each party acknowledges that he/she was given the opportunity to have counsel of their choice review this Agreement prior to execution. Given this fact, no legal or other presumptions against the party drafting this Agreement concerning its construction or interpretation accrues to the benefit of the other party to this Agreement and each party expressly waives the right to assert such a presumption in any proceeding or disputes connected with, arising out of or involving this Agreement.

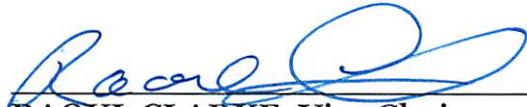
15. If either party retains an attorney to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and cost.

16. This Agreement shall not become effective until the City and the SDDA properly approve its terms in accordance with the Georgia Open Meetings Act and submit an order which is approved by the Court in the above-referenced matters that approves and incorporates the terms hereof therein. It is contemplated that both bodies will vote on this Agreement within fifteen (15) days after execution hereof, and an order will be presented to the Court as referenced above within thirty (30) days hereof seeking approval of same therein.

17. The terms of this Agreement shall survive the execution and delivery of same.

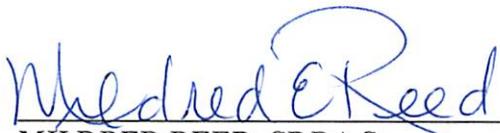
IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals to this Mutual Release and Settlement Agreement on this 30 day of October, 2015.

**DOWNTOWN DEVELOPMENT
AUTHORITY OF THE CITY OF
STOCKBRIDGE**



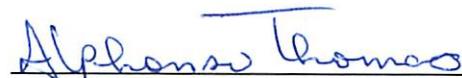
RAOUL CLARKE, Vice Chairman

So approved and attested to by the SDDA Secretary
this 30th day of October, 2015:



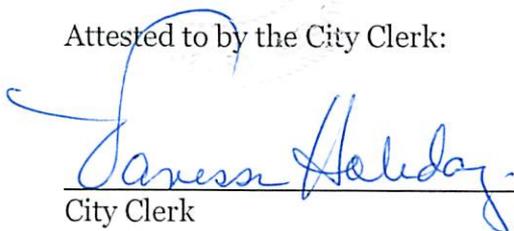
MILDRED REED, SDDA Secretary (S E A L)

CITY OF STOCKBRIDGE, GEORGIA



**ALPHONSO THOMAS
Mayor Pro Tem**

Attested to by the City Clerk:



City Clerk (S E A L)