

Handwritten initials/signature

Albany County Clerk
Deed Books (Record Room)
Book 3054 Page 369



TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY

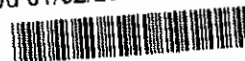
AND

SHAKER POINTE AT CARONDELET, INC.
AS LANDLORD

AMENDATORY LEASE AGREEMENT

DATED AS OF DECEMBER 1, 2012

Albany County Clerk
Document Number 11305799
Rcvd 01/02/2013 12:34:58 PM



RESPECTING THE PREMISES LOCATED IN THE TOWN OF
COLONIE, ALBANY COUNTY, NEW YORK.

THIS LEASE AGREEMENT CONSTITUTES A SECURITY
AGREEMENT UNDER THE UNIFORM COMMERCIAL CODE
OF THE STATE OF NEW YORK.

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AMENDATORY LEASE AGREEMENT

THIS AMENDATORY LEASE AGREEMENT dated as of December 1, 2012 (the "Agreement") by and between TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York having an office for the transaction of business located at 347 Old Niskayuna Road, Latham, New York 12110 (the "Agency") and SHAKER POINTE AT CARONDELET, INC., a not-for profit corporation organized and existing under the laws of the State, having an office for the transaction of business located at 14 A Gurry Circle, Watervliet, New York, 12189-2340 (the "Company");

WITNESSETH:

WHEREAS, at the request of the Company, the Agency has undertaken a project (the "Project") consisting of the following: (A)(1) the acquisition of a leasehold interest in approximately 30.5 acres of land located at 42 and 48 Delatour Road, in the Town of Colonie, Albany County, New York (the "Land"), and the existing buildings located thereon (the "Existing Buildings"), (2) the demolition of the Existing Buildings, (3) construction of up to thirteen (13) buildings consisting of various apartments with common areas, single family, duplex and triplex housing units, a multi-faceted community building, and several one-story parking garages in locations as shown on the site plan approved by the Town of Colonie Planning Board with multiple car capacity (collectively, the "Facility"), and (4) the acquisition and installation therein and thereon of various machinery and equipment (the "Equipment") (the Land, the demolition of the Existing Buildings, the Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the New York State General Municipal Law) with respect to the foregoing, including potential exemptions from mortgage recording taxes and sales and uses taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, in connection with the Project, the Agency and the Company entered into a certain underlying lease to agency dated as of December 1, 2011 (the "Original Underlying Lease"), whereby the Company leased the Project Facility to the Agency and a certain lease agreement dated as of December 1, 2011 (the "Original Lease") whereby the Agency subleased its interest in the Project Facility to the Company and the Company agreed to undertake and complete the Project; and

WHEREAS, in order to finance a portion of the costs of the Project, the Company obtained from Manufacturers and Traders Trust Company (the "Bank") a loan in the amount of \$10,095,890.41 (the "Original Loan"); and

WHEREAS, at the request of the Company, the Agency joined in the execution of a mortgage (the "Original Mortgage"), dated as of December 1, 2011 from the Agency and the Company to the Bank to secure the Original Loan, which Original Mortgage granted to the Bank a continuing and collateral mortgage on and security interest in the Project Facility and assigned to the Bank all leases and rents relating to the Project Facility; and

WHEREAS, in order to obtain additional financing for the next phase of the Project, the Company has determined to obtain a loan from the Bank in the amount of \$23,000,000 (the "2012 Loan") and has requested that the Agency join in the execution of a mortgage (the "2012 Mortgage), from the Agency and the Company to the Bank to secure the 2012 Loan, which 2012 Mortgage will grant to the Bank a continuing mortgage on and security interest in the Project Facility and assign to the Bank all leases and rents relating to the Project Facility; and

WHEREAS, by resolution adopted on December 10, 2012 (the "2012 Loan Approving Resolution"), the Agency determined to grant additional Financial Assistance to the Company in the form of a mortgage recording tax exemption with respect to the recording of the 2012 Mortgage; and

WHEREAS, in connection with the 2012 Loan, the Original Underlying Lease and the Original Lease Agreement will be amended (as amended, the "Underlying Lease" and the "Lease Agreement", respectively);

NOW, THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

SECTION 1. (A) Section 1.1 of the Original Lease Agreement shall be amended to amend the definition of "Basic Documents" and to add definitions for "2012 Loan" and "2012 Mortgage":

"Basic Documents" means the Underlying Lease, the Lease Agreement, the Payment in Lieu of Tax Agreement, the PILOT Mortgage, the Mortgage, the 2012 Mortgage and all other instruments and documents related thereto and executed in connection therewith, and any other instrument or document supplemental thereto, each as amended from time to time.

"2012 Loan" mean the loan from the Bank to the Company in an amount not to exceed \$23,000,000.

"2012 Mortgage" means the mortgage dated as of November 29, 2012 from the Agency and the Company to the Bank to secure advances of up to \$23,000,000 under the 2012 Loan.

SECTION 2. REPRESENTATIONS BY COMPANY. (A) The Company represents that (1) the Company has the legal authority to enter into this Agreement, and (2) the Company has authorized the execution, delivery and performance of this Agreement.

(B) The Company further represents that neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and thereby nor the fulfillment of or compliance with the provisions of this Agreement requires the approval of any governmental authority or will conflict with or result in a breach of any of the terms, conditions or provisions of or any restriction or any agreement or instrument to which the Company is a party or by

which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature whatsoever upon any of the properties of the Company under the terms of any such instrument or agreement.

(C) No Event of Default specified in any of the Basic Documents has occurred and no event which with notice or lapse of time or both would become such an Event of Default has occurred and is continuing.

(D) Each of the representations of the Company set forth in each of the Basic Documents is true and correct as of the date hereof.

SECTION 3. PROVISIONS OF AMENDATORY LEASE AGREEMENT PAYMENT CONSTRUED WITH ORIGINAL LEASE AGREEMENT. All of the covenants, agreements and provisions of this Agreement shall be deemed to be and construed as part of the Original Lease Agreement and vice versa to the same extent as if fully set forth verbatim therein and herein. In the event of any variation or inconsistency between any covenant, agreement or provision contained in this Agreement and any covenant, agreement or provision contained in the Original Lease Agreement, the covenant, agreement or provision contained herein shall govern.

SECTION 4. ORIGINAL LEASE AGREEMENT AS AMENDED TO REMAIN IN EFFECT. Except as amended by this Agreement, the Original Lease Agreement shall remain in full force and effect and the terms and conditions thereof are hereby confirmed.

SECTION 5. RECORDING AND FILING. The Amendatory Underlying Lease (or a memorandum thereof), this Amendatory Lease Agreement (or a memorandum hereof) and the 2012 Mortgage, shall be recorded by the Agency in the office of the County Clerk of Albany County, New York, or in such other office as may at the time be provided by law as the proper place for the recordation thereof.

SECTION 6. EXECUTION OF COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Agency and the Company have caused this Amendatory Lease Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

TOWN OF COLONIE INDUSTRIAL
DEVELOPMENT AGENCY

By: John Kearney
Chairman

SHAKER POINTE AT CARONDELET, INC.

By: _____
Authorized Representative

Acknowledged and approved:

SOCIETY OF THE SISTERS OF ST. JOSEPH

By: _____
Authorized Representative

IN WITNESS WHEREOF, the Agency and the Company have caused this Amendatory Lease Agreement to be executed in their respective names by their respective duty authorized officers, all as of the day and year first above written.

TOWN OF COLONIE INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Chairman

SHAKER POINTE AT CARONDELET, INC.

By: Charla Commier, CSJ
Authorized Representative

Acknowledged and approved:

SOCIETY OF THE SISTERS OF ST. JOSEPH

By: Mary Anne Rodgers CSJ
Authorized Representative

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

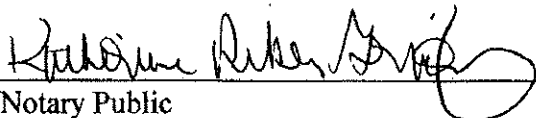
On the 10th day of December in the year 2012 before me, the undersigned, a notary public in and for the State of New York, personally appeared John Kearney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of the which the individual acted, executed the instrument.

Melissa C. Bennett
Notary Public

MELISSA C BENNETT
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02BE6268734
QUALIFIED IN ALBANY COUNTY,
COMMISSION EXPIRES 8/06/2012

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On the 24 day of December in the year 2012 before me, the undersigned, a notary public in and for the State of New York, personally appeared Charla Commins, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of the which the individual acted, executed the instrument.

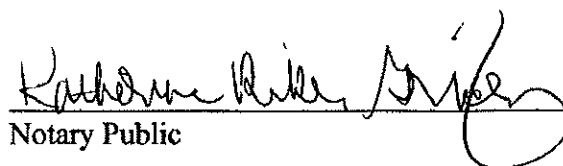


Notary Public

KATHERINE RIKER GRIFFERTY
Notary Public, State of New York
Schenectady County, No. 0016175801
Commission Expires March 11, 2015

STATE OF NEW YORK)
) SS.:
COUNTY OF ALBANY)

On the 21st day of December in the year 2012 before me, the undersigned, a notary public in and for the State of New York, personally appeared Mary Anne Rodgers, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of the which the individual acted, executed the instrument.



Notary Public

KATHERINE RIKER GRIFFERTY
Notary Public, State of New York
Schenectady County, No. 02CR4978497
Commission Expires March 11, 2015

EXHIBIT A
DESCRIPTION OF THE LAND

LEGAL DESCRIPTION

All that tract, piece or parcel of land, situate in the Town of Colonis, County of Albany, State of New York, lying along the northeasterly line of Watervliet Shaker Road (a.k.a. N.Y.S. Route 155), the southeasterly line of Delatour Road and the southwesterly line of Carondelet Drive, being further bounded and described as follows:

Beginning at the point of intersection of the common division line of lands of Wilson as described in Book 2672 of Deeds at Page 841, to the Southeast and lands of The Society of The Sisters of St. Joseph as described in Book 2976 of Deeds at Page 683, to the Northwest with the northeasterly line of Watervliet Shaker Road (a.k.a. N.Y.S. Route 155), thence from said point of beginning, along said northeasterly line, North 59 deg. 59 min. 40 sec. West, 702.37 feet to the point of intersection of said northeasterly line, with the southeasterly line of Delatour Road, thence along said southeasterly line the following three (3) courses: 1.) North 36 deg. 18 min. 40 sec. East, 1,045.92 feet to a point, thence 2.) North 40 deg. 07 min. 30 sec. East, 406.90 feet to a point, thence 3.) North 40 deg. 00 min. 00 sec. East, 269.07 feet to a point of curvature at the point of intersection of said southeasterly line, with the southwesterly line of Carondelet Drive, thence along the southwesterly and westerly lines of Carondelet Drive and lands of Fonthonne Manor Housing Development Fund Company as described in Book 2635 of Deeds at Page 463 the following six (6) courses: 1.) along a curve to the right, having a radius of 25.00 feet, an arc length of 39.28 feet and a chord of North 85 deg. 00 min. 30 sec. East, 35.36 feet to a point, thence 2.) South 49 deg. 59 min. 00 sec. East, 455.12 feet to a point, thence 3.) South 05 deg. 02 min. 00 sec. East, 527.29 feet to a point, thence 4.) South 57 deg. 56 min. 00 sec. East, 439.23 feet to a point, thence 5.) South 20 deg. 36 min. 30 sec. West, 111.43 feet to a point, thence 6.) South 45 deg. 18 min. 00 sec. East, 44.00 feet to a point in the westerly line of lands of Lake Shore Park, LLC as described in Book 2583 of Deeds at Page 1149, thence along said westerly line, South 21 deg. 41 min. 40 sec. West, 988.76 feet to a point in the northeasterly line of said Watervliet Shaker Road, thence along said northeasterly line, North 70 deg. 27 min. 40 sec. West, 8.26 feet to the point of intersection of said northeasterly line with the southeasterly line of lands of The Society of The Sisters of St. Joseph as described in Book 2576 of Deeds at Page 443, thence along the southeasterly, northeasterly and northwesterly lines of said lands of The Society of The Sisters of St. Joseph and lands of Shaker Commons Realty Corp. (Cedarwood East) as described in Book 2369 of Deeds at Page 331 the following eight (8) courses: 1.) North 21 deg. 12 min. 30 sec. East, 227.70 feet to a point, thence 2.) North 70 deg. 27 min. 40 sec. West, 22.01 feet to a point, thence 3.) North 21 deg. 22 min. 30 sec. East, 599.44 feet to a point, thence 4.) North 55 deg. 05 min. 40 sec. West, 291.00 feet to a point, thence 5.) North 25 deg. 20 min. 50 sec. East, 62.70 feet to a point, thence 6.) North 59 deg. 47 min. 20 sec. West, 246.82 feet to a point, thence 7.) North 63 deg. 33 min. 20 sec. West, 223.22 feet to a point, thence 8.) South 28 deg. 33 min. 40 sec. West, 576.14 feet to a point in the northeasterly line of aforesaid lands of Wilson, thence along the northeasterly and northwesterly lines of said lands of Wilson the following two (2) courses: 1.) North 60 deg. 00 min. 30 sec. West, 60.00 feet to a point, thence 2.) South 28 deg. 24 min. 30 sec. West, 410.05 feet to the point of beginning and containing 30.25 +/- acres of land.