

OFFICIAL

**BOROUGH OF ASPINWALL
RESOLUTION NO. 2017-03**

A RESOLUTION OF THE BOROUGH OF ASPINWALL ALLEGHENY COUNTY, PENNSYLVANIA, SUPPORTING THE ALLOCATION OF FUNDS PREVIOUSLY AWARDED TO THE BOROUGH AND ASPINWALL RIVERFRONT PARK FOR THE REALIGNMENT OF BRILLIANT AVENUE AT FREEPORT ROAD THROUGH THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION'S MULTIMODAL TRANSPORTATION FUND AND THE REDEVELOPMENT AUTHORITY OF ALLEGHENY COUNTY'S GAMING ECONOMIC DEVELOPMENT FUND TO THE INTERSECTION OF EASTERN AVENUE AND FREEPORT ROAD IF CERTAIN CONDITIONS ARE MET ON OR BEFORE JUNE 30, 2017.

WHEREAS, in 2014, the Aspinwall Riverfront Park ("ARP"), with the support of the Borough of Aspinwall (the "Borough"), applied for and received a grant from the Pennsylvania Department of Transportation ("Penn DOT") in the amount of \$921,453.00 from Penn DOT's Multimodal Grant Fund to align Brilliant Avenue and River Road at Freeport Road in order to create a four-way intersection (the "Brilliant Avenue Realignment Project");

WHEREAS, in 2014, the Borough applied for and received a grant from the Allegheny County Redevelopment Authority ("Authority") in the amount of \$500,000 from the Authority's Gaming and Economic Development Fund for design and preconstruction activities related to the Brilliant Avenue Realignment Project;

WHEREAS, Riverfront 47, LP, a Pennsylvania limited partnership ("R47") proposes to redevelop forty-seven (47) acres of riverfront property, known as the former AZCON scrap yard, located in the Borough (at Allegheny County Lot and Block Number 168-P-250-2), O'Hara Township and Sharpsburg Borough into a mixed use development that has preliminarily proposed residential, commercial and light industrial uses (the "Development" or "Proposed Development");

WHEREAS, in 2016, ARP and R47 requested that the Borough allocate the funds earmarked for the Brilliant Avenue Realignment Project to extend Eastern Avenue across Freeport Road to serve as an access road for both ARP and the Development (the "Eastern Avenue Extension Project");

WHEREAS, in order to promote the public health, safety, and general welfare, the Borough Council supports a request to Penn DOT and the Authority to reallocate the project

funds previously dedicated to the Brilliant Avenue Realignment Project to the Eastern Avenue Extension Project if certain conditions, as set forth below, are met; and

NOW, THEREFORE, the Council of the Borough of Aspinwall hereby resolves as follows, incorporating the above recitals by reference:

SECTION 1. The Borough Council supports a request to reallocate the funds provided by Penn DOT and the Authority to the Eastern Avenue Extension Project if the following conditions are met on or before June 30, 2017:

(a) R47 and ARP must enter into a written agreement with the Borough that restricts the access of all vehicles, including but not limited to construction vehicles, from accessing the Development through the extension of Eastern Avenue, through any street that is owned or maintained by the Borough, or through any right of way in which the Borough has a right of access which includes, but is not limited to, the vacated portion of Middle Alley during the pre-construction and active construction time periods of each and every phase of R47's proposed development;

(b) The governing bodies of Aspinwall Borough, O'Hara Township and Sharpsburg Borough must negotiate and formally adopt an intergovernmental cooperation agreement for municipal services and related revenue;

(c) R47 must enter into a written agreement with the Borough that details the amount and the timing of the payment of a monetary contribution to Aspinwall Borough's Municipal Service Fee Fund;

(d) The Borough must receive an expression of support of the proposed Eastern Avenue Extension Project from Norfolk Southern Corporation;

(e) R47 must submit documentation, in a form acceptable to the Borough Solicitor, that establishes R47's ownership of or option to purchase property located at 304 Freeport Road (Allegheny County Lot and Block numbers 122-D-166 and 122-D-168), currently being operated as a Sunoco gas station;

(f) R47 must submit a subdivision and land development application to the Borough of all phases of the Proposed Development which meets the requirements of the Borough's Code of Ordinances, including, but not limited to the Borough's Subdivision and Land Development Ordinance;

(g) R47 must enter into a written agreement with the Borough in which R47 agrees to fund traffic mitigation measures designed to reduce the traffic impact of the proposed Development on Freeport Road, ARP, Eastern Avenue, and any and all streets owned or maintained by the Borough that are impacted by the Proposed Development; and

(h) R47 and ARP must enter into a written agreement with the Borough which details the Borough, R47 and ARP's responsibilities regarding the construction, maintenance, utility

installation, utility access and ownership of the Eastern Avenue Extension Project and the access road to the Development.

SECTION 2. If the conditions set forth in Section 1 of this Resolution are not satisfied on or before June 30, 2017, it is the intent of Borough Council that the project funds remain with the Brilliant Avenue Realignment Project.

SECTION 3. If, in the sole discretion of Borough Council, R47 and ARP have made a good faith effort and have achieved substantial progress towards meeting the conditions set forth in Section 1 of this Resolution prior to June 30, 2017, Borough Council reserves the right to affirmatively vote to grant an extension of the above deadline to no later than August 31, 2017, if Borough Council determines, in its sole discretion, any conditions not yet satisfied are likely to be pursued in good faith and satisfied within the additional time period provided;

SECTION 4. Borough Council hereby reserves the right to affirmatively vote to keep the project funds with the Brilliant Avenue Realignment Project at any duly advertised meeting of the Borough Council from the date of this Resolution until June 30, 2017.

SECTION 5. The appropriate Borough officials and/or designees are hereby authorized to perform any act necessary to comply with and implement the terms of this Resolution.

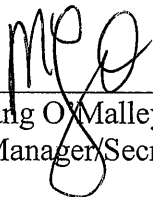
SECTION 6. All prior resolutions are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION 7. This Resolution shall take effect in accordance with applicable law.

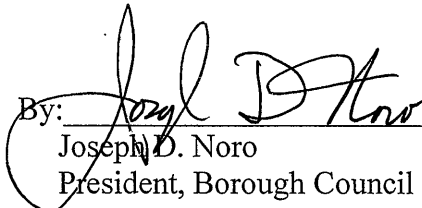
RESOLVED and **ADOPTED** this 8th day of February, 2017 by the Council of the Borough of Aspinwall in lawful session duly assembled.

ATTEST:

BOROUGH OF ASPINWALL



Melissa Lang O'Malley
Borough Manager/Secretary
(SEAL)

By: 

Joseph D. Noro
President, Borough Council