



Industrial Development Authority Meeting Agenda

12:00PM ▪ Thursday, February 21, 2019
300 Lee Street ▪ Bristol, VA 24201



12:00 P.M.
Call to Order

Called Meeting Agenda

1. Consider Approval of First Amendment to Revised and Restated Agreement with Interstate Development Partners.
 - a. Staff Report
 - b. Public Comments
 - c. Motion and Second
 - d. Discussion
 - e. Roll Call

FIRST AMENDMENT TO
REVISED AND RESTATED AGREEMENT

THIS FIRST AMENDMENT TO REVISED AND RESTATED AGREEMENT (the “**First Amendment**”), is made and entered into effective as of the ____ day of _____, 2019, by and between **THE CITY OF BRISTOL VIRGINIA** (the “**City**”), the **BRISTOL VIRGINIA INDUSTRIAL DEVELOPMENT AUTHORITY** (the “**IDA**”), and **INTERSTATE DEVELOPMENT PARTNERS, LLC**, a Virginia Limited Liability Company (“**Interstate**”), as follows:

RECITALS

A. Whereas, the City, the IDA and Interstate are parties to that certain Agreement dated October 10, 2012, as amended by the Revised and Restated Agreement with an effective date of October 10, 2012 (hereinafter referred to herein as the “**Development Agreement**”), concerning the development of a retail shopping center located in the City of Bristol, Virginia, near Exit 5 on Interstate 81 and commonly referred to as The Falls.

B. Whereas, the parties hereto acknowledge that the method of transferring the Property, which is made subject to a performance deed of trust, repurchasing rights and/or right of first refusal, as required under Article II of the Development Agreement, has rendered it difficult for Interstate (and other prospective purchasers) to obtain construction financing necessary for the development of the Property.

C. Whereas, prospective retail tenants which are acceptable to the City and IDA (but not identified as a Qualified Business on Schedule D to the Development Agreement) have expressed interest in opening retail stores within The Falls.

D. Whereas, the parties hereto have determined it is in the best interest of the City to facilitate the construction financing and development of various parcels of the Property located within The Falls and to expand the definition of an approved Qualified Business to permit the development of prospective tenants which have expressed interest in The Falls (but are not identified as a Qualified Business on Schedule D to the Development Agreement).

E. Accordingly, the parties hereto desire to modify certain terms and conditions of the Development Agreement as set forth below.

NOW THEREFORE, for and in consideration of the mutual agreements and undertakings set forth below, the parties agree as follows:

1. Capitalized Terms and Exhibits. Except as otherwise expressly provided herein, capitalized terms used in this First Amendment shall have the same meanings assigned thereto in the Development Agreement. All Exhibits attached to this First Amendment shall also be deemed attached to the Development Agreement.

2. Definitions. As used herein, Lot 16, Lot 17, Lot 20 and Parcel 226-A-4, shall refer to the specific parcels of real property identified individually as Lot 16, Lot 17, Lot 20 and Parcel 226-A-4 on the plat attached hereto as Exhibit A-1.

3. Exceptions to Performance Deed(s) of Trust. Article II of the Development Agreement is hereby amended to add a new Section 2.13 as follows:

2.13 Exceptions to Performance Deed(s) of Trust. Notwithstanding anything to the contrary contained herein, the provisions of this Article II which require that the Property be transferred subject to a performance deed of trust, repurchasing rights and/or right of first refusal shall not apply to any transfer of Lot 16, Lot 17, Lot 20 and/or Parcel 226-A-4, or any portion thereof.

4. Qualified Businesses. The definition of Qualified Business in the Development Agreement is hereby amended to include the following commercial uses, all of which shall be deemed Qualified Businesses expressly approved by the City and IDA: any retail operation (i.e., the sale of goods or services), including without limitation, restaurants, breweries, hotels/motels, entertainment uses (such as amusement parks, bowling alleys, skating rinks, movie theaters, cinemas, live performance theater, amphitheater, stadiums, sports venues/facilities, sports betting, gambling facilities and/or casino operations) and Retail Office. "Retail Office" shall mean an office which provides services directly to consumers, including but not limited to financial institutions, real estate, stock brokerage, title companies, travel and insurance agencies, and medical, dental and legal clinics or offices. Any health spa, fitness center, workout facility or car wash shall also be deemed a Qualified Business. Schedule D attached to the Development Agreement is hereby deleted. Any and all references to Schedule D in the Development Agreement shall hereby refer to the approved commercial uses set forth herein, all of which shall be deemed Qualified Businesses expressly approved by the City and IDA.

5. Signage. Subject to applicable code, Interstate (or its assignee) shall be permitted to install new pylon sign(s) within Lot 16, Lot 17, Lot 20 and Parcel 226-A-4, or any subdivision thereof.

6. Conflicts/Ratification. If there is any conflict between the provisions of the Development Agreement and this First Amendment, the provisions of this First Amendment will control. Except as amended and supplemented by this First Amendment, the Development Agreement is ratified by the parties and remains in full force and effect.

7. Authority. Each of the undersigned parties represent and warrant that it has the full capacity, right, power and authority to execute, deliver and perform this First Amendment and that all required actions, consents and approvals therefor have been duly taken and obtained.

8. Entire Agreement. This First Amendment constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior written or oral agreements pertaining thereto.

9. Captions; Terminology. The captions set forth herein are for convenience only and are not a part of this First Amendment. The use of the words “and/or” shall mean each of the items listed whether together, in partial combination or alone.

10. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be an original and taken together shall constitute one and the same document. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document. The failure of any party hereto to execute this Amendment or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder. Facsimile or “pdf” signatures on this Agreement shall be valid the same as originals.

IN WITNESS WHEREOF, this First Amendment has been executed as of the date first set forth above by the duly authorized representatives of the undersigned parties.

THE CITY OF BRISTOL VIRGINIA

By: _____

Its: _____

INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF BRISTOL VIRGINIA

By: _____

Its: _____

INTERSTATE DEVELOPMENT PARTNERS, LLC.

By: _____

J. Michael Nidiffer, Member

EXHIBIT A-1

PLAT OF PARCEL 226-A-4, LOT 20, AND LOT 16 & 17

[ATTACHED]

