

Summary of Phase VI Development Agreement

The proposed Phase VI Development Agreement (“Agreement”) sets forth the agreements between the City of Virginia Beach Development Authority, Town Center Associates, Town Center Associates 9, L.L.C. and Zeiders American Dream Theater for the design and construction of a new apartment tower, elevated public plaza, performance theater, with associated retail space, at Block 9 of Town Center. This summary is intended as a guide for understanding and reviewing the Agreement, not as a restatement of the Agreement.

Summary of Transaction:

Phase VI of Town Center is a public-private partnership between the Authority, two related Town Center Associates entities and Zeiders American Dream Theater. Phase VI will consist of development on Block 9 at Town Center (currently a surface parking lot between the Westin and Cosmopolitan Apartments). All square footages are approximate and subject to refinement as plans are finalized.

The planned development on Block 9 is a 9 level apartment tower comprised of: (i) 33,000 square feet of first-floor retail, (ii) the Zeiders American Dream Theater, described below, on the second level, (iii) an 11,000 square foot public plaza also on the second level, (iv) a 5,000 square foot restaurant on the second level, (v) a pedestrian bridge on the second level across Central Park Avenue connecting the new structure to the parking garage at the Cosmopolitan, and (vi) 120 +/- apartments on levels three through nine.

The Zeiders American Dream Theater will be a privately funded and operated performing arts theater totaling 17,000 square feet. The theater will have 300 seats, 2,200

square feet of practice space, 5,000 square feet of pre-function space and 3,000 square feet of back of house and support space.

Once constructed to the specifications set out in the Agreement, the Authority will purchase the public plaza on the 2nd level (including a grand staircase from street level up to the plaza) and also purchase the pedestrian bridge across Central Park Avenue.

Preamble to Agreement:

A. Parties to the Agreement The City of Virginia Beach Development Authority (“Authority”), Town Center Associates L.L.C. (“TCA”), Town Center Associates 9, L.L.C. (“TCA 9”) and Zeiders American Dream Theater (“Zeiders”). TCA and TCA 9 are affiliates of Armada/Hoffler Development Company, L.L.C. (“AH”). In this summary, TCA, TCA 9 and AH are referred to collectively as “Developer”. Zeiders is a non-profit foundation formed for the purpose of operating and funding the Theater.

B. Recitals. The recitals to the Agreement briefly describe the previous five phases of development at Town Center and the parties’ desire to enter into Phase VI.

Terms of Agreement (the numbers of these paragraphs correspond to the numbered sections of the Agreement):

1. Definitions. The definitions used throughout the Agreement are located in the Appendix to the Agreement. You may need to refer to the Appendix to understand some of the abbreviations used in the Agreement. These definitions are generally the same as have been used in previous development agreements.
2. Support Agreement. This section of the Agreement provides for the City to enter into a Support Agreement with the Authority. The Support Agreement requires the City to provide the Authority with the necessary funds to complete the

transactions contemplated by the Phase VI Agreement, including funds to pay the bonds issued as a part of Phase VI. The City and Authority have entered into Support Agreements for every other phase at Town Center. The form of the Support Agreement is attached as Exhibit 2 to the Agreement.

3. Zeiders Theater. This section sets forth the terms and conditions on which the Zeiders Theater will be constructed and operated.

3.1 Describes the proposed theater as set forth on page 1, above.

3.2 Provides that Developer and Zeiders will enter into a design-build contract for the theater (the “Theater Construction Contract”). The Theater Construction Contract will delineate the roles of Zeiders and Developer in the design and construction process. Zeiders has agreed to deposit the entire amount necessary to construct the theater (approximately \$7.7MM) into escrow prior to commencement of construction.

3.3 Confirms that Zeiders will own title to the theater, subject to the “City Interest”, defined below.

3.4 Describes the relationship between the City and Zeiders after the theater is constructed. Zeiders will be solely responsible for the operations, maintenance and programming of the theater. The City will be entitled to use the theater up to 24 times per year. If the theater goes dark, meaning it closes for more than 6 months without the intention to reopen, the City will take title to the theater (the “City Interest”). The City interest will be reflected in the deed vesting title in the theater to Zeiders.

4. Acquisition and Development of Project Land. Developer owns all the land necessary for Phase VI. Developer agrees to give Authority access to all studies and information necessary for Authority to confirm the Phase VI land is suitable to the Authority for development. Section 4 also restates that the Option Agreement remains in full force and effect and has not been modified. The Option Agreement only applies to Block 2, the surface lot fronting Virginia Beach Boulevard between the Gordon Biersch and Taco Bell. Per the Option Agreement, Developer's right to acquire Block 2 expires on April 30, 2018.
5. General Obligations. This section delineates the responsibilities of the parties for such things as payment of taxes, insurance requirements, due diligence undertakings, compliance with restrictive covenants, and the terms of the condominium documents that will cover Phase VI. This section is consistent with the previous development agreements.
6. Plan Process. The process for the development, submission and governmental approval for all of the construction plans for the Phase VI improvements are detailed in this section. Also, the specifications for the construction of the public components of Phase VI are detailed in Exhibit 6.3.1. The terms of Section 6 are consistent with the previous development agreements.
7. Land Use. The process for compliance with the zoning, subdivision, and development control requirements applicable to the Phase VI land is detailed in this Section. The terms of Section 7 are consistent with previous development agreements.

8. Construction Process. The process for the actual construction of the improvements in Phase VI, and the terms on which the Authority will accept the public improvements is detailed in Section 8. The terms of Section 8 are consistent with the previous development agreements.
9. Phase VI Developers; Assumption of Obligations. Allows the Developer to assign its rights and obligations under the Agreement to a “Block Developer”. TCA 9 will be the Block Developer and will have the primary responsibility for the construction and development of the block of Phase VI. The terms of Section 9 are consistent with previous development agreements.
10. Phase VI Development. Section 10 sets out the overall responsibilities of each party. The Developer is to construct the improvements described in the agreement, and (if awarded a contract to do so) construct the public infrastructure, including the pedestrian bridge. The Authority is to provide for the construction of the public infrastructure necessary for Phase VI and purchase the public plaza if the other terms of this Agreement are satisfied (including substantial completion of the Theater pursuant to the Theater Construction Contract) . Each prior Town Center development agreement has contained a similar paragraph with similar responsibilities of the parties.
11. Acquisition by Authority. Requires the Developer to sell and the Authority to purchase the plaza if the other terms of the Agreement are satisfied.

This section contains the conditions the Developer must satisfy before the Authority will be obligated to purchase the public improvements in Phase VI.

Exhibit 11.3.1 and Exhibit 11.3.2 set forth the completion standards the

Developer must satisfy before the Authority will be obligated to purchase the public improvements. Section 11.6 sets forth the price the Authority will pay to acquire the public improvements in Phase VI. Exhibit 11.6.1 details the elements that will be considered in calculating the price paid by the Authority.

12. Financing and Related Matters. Provides for the inclusion of all the Phase VI land in the Special Tax District (“SSD”). This section also sets forth the standards for the adjustments of the SSD. Finally, this section states that the Authority may issue bonds to fund its obligations under Phase VI. The terms of Section 12 are consistent with previous development agreements with the exception of Section 12.3.

12.3 Block 9 RA Obligation. Section 12.3 details the terms of the Developer’s Block 9 RA Obligation (“RA” stands for reimbursement amount). This obligation requires the Developer to make payments to the City in an amount totaling \$3,850,000 over eight annual installments. The first payment was due in 2015. The purpose of the obligation is to reimburse the City (and the TIF) for projected shortfalls in the TIF due to the delay in constructing the improvements on Block 9 and the Authority’s anticipated debt service on the bonds issued to purchase the plaza. The Developer can receive a credit against payments owed based on the difference between the amount of taxes in the core area of Town Center (the blocks developed by Armada Hoffler in prior phases of Town Center) actually paid versus the taxes that were projected to be paid. For example, the first payment due in December of 2015 was for \$400,000. The projected taxes paid were \$3,785,963 while the actual taxes paid were \$3,418,755; a difference of

\$367,208. The Developer was required to make a payment of \$367,208; which, when added to the actual taxes paid equaled the projected TIF revenues had the Block 9 improvements been constructed previously. The terms of the Block 9 RA are set forth on Exhibit 12.3.

13. Intentionally Deleted. In prior development agreements, Section 13 dealt with the parking matters. As there is no parking element to this phase, Section 13 was deleted.

14. General Representations and Warranties. This section contains the standard representations and warranties between the parties. These are standard terms in a commercial agreement, and the terms of Section 14 are consistent with previous development agreements.

15. Default. This section sets forth the grounds for default and remedies available to the non-defaulting party or parties. The terms of Section 15 are consistent with previous development agreements.

16. Administrative Provisions. Standard miscellaneous provisions in a commercial development agreement. The terms of Section 16 are consistent with previous development agreements.