

## **DOME SITE REDEVELOPMENT**

### **TERM SHEET**

The City of Virginia Beach Development Authority (the “Authority”) issued a Request for Qualifications (RFQ) for the development of approximately 10.5 acres known as the “Dome Site”. The Dome Site consists of three (3) blocks of approximately 3.2 acres each located on 19<sup>th</sup> St., an additional 0.70 acres parcel at the corner of 18th St. and Arctic Ave., and a portion of 19<sup>th</sup> Street between Pacific Ave. and Arctic Ave. (the “Property”). The Property is shown on Exhibit A, attached hereto. Representatives of Venture Waves, LLC (or its assigns) (the “Developer”) submitted its qualifications to the Authority on January 4, 2017. The Authority elected to exclusively negotiate with the Developer on November 21, 2017. The Authority and the Developer executed an Exclusive Dealing Agreement, dated February 1, 2018, as amended.

As set forth below, the Developer proposes the development of a mixed-use development project consisting of office, retail, residential, entertainment, recreational and parking uses. The Developer has requested the Authority and the City of Virginia Beach (the “City”) to publicly participate in the Project (defined below) primarily in the form of the acquisition of the entertainment venue, parking facilities and certain additional improved public spaces. In addition, the Developer has requested TDFP participation and a performance grant in an amount necessary to achieve a financeable return on cost. These forms of participation will allow the Developer to address public parking needs, provide public amenities and dramatically enhance the density and quality of development, consistent with the City’s vision for the Dome Site.

This Term Sheet is an outline of terms. Moreover, this Term Sheet is not, nor is it intended to be, an offer, an acceptance, or a binding agreement of any kind. To the contrary, this Term Sheet is only a summary of the basic terms of a possible transaction, which may be agreed in principle only. Although this Term Sheet identifies many of the material issues, any possible transaction is complex and issues may arise during preparation and negotiation of definitive documentation that have not been discussed in this Term Sheet. Accordingly, legal obligations among the parties will only be as specified in any definitive agreements that ultimately may be approved by City Council, the Authority’s Board of Commissioners and the Developer’s principals, and executed by all of the parties. Any and all obligations of the City and the Authority are subject to appropriation of sufficient funds to meet those obligations by the City Council of the City of Virginia Beach. Additionally, none of the parties to this Term Sheet are under any obligation or duty to attempt to negotiate a transaction or any related documentation or, if such negotiations commence, to continue such negotiations. Nonetheless, by approving this Term Sheet, each party indicates its belief that this Term Sheet can form the basis for a transaction and their respective willingness to commence negotiation and preparation of definitive documentation toward that end.

1. **Project Description:** The Developer intends to ground lease the Property from the Authority for a term of 60 years for \$1.00 per year, subject to two 20-year extensions based on Project performance at Developer's discretion. The Developer will submit its leasehold interest in the Property as the Declarant to create a leasehold condominium regime pursuant to the Virginia Condominium Act. The Developer's Declaration of Condominium, By-laws, Plats and Plans will be mutually agreeable to the Authority and the Developer. The condominium regime will consist of multiple condominium units, certain common elements and certain limited common elements. The Developer intends to retain title to certain condominium units in the name of the Developer or in affiliated entities and intends to convey title to certain condominium units to the Authority and/or the City. The Developer intends to construct a mixed-use development project containing multiple buildings and use categories generally as described below. The parties intend the Project to be constructed on the Property but may consider adjacent parcels if acquired. The following elements will constitute the "Project":
  - a. **Entertainment Venue:** The "Entertainment Venue" shall be a state-of-the-art music and entertainment facility to accommodate approximately 3,500 patrons.
  - b. **Parking Facilities:** The "Parking Facilities" shall include approximately 1,900 parking spaces located throughout the Project.
  - c. **Commercial Facilities:** The "Commercial Facilities" shall include a mix of retail, experiential retail, attractions, surf park, food and beverage facilities and office uses.
  - d. **Residential Facilities:** The "Residential Facilities" shall include attached multifamily dwellings located throughout the Project.
  - e. **Streetscapes:** The "Streetscapes" shall include upgraded hardscapes and landscapes, pedestrian areas, pedestrian bridges and other features customarily found in a first-class urban mixed-use development.
2. **Developer Obligations.** The Developer will construct, or cause to be constructed, all elements of the Project. All components above are subject to mutual collaborative refinement. The Developer's construction of the Project shall comply with the City Council's Small Business Enhancement Program. In addition, the Developer acknowledges the City Council's 10% minority subcontractor goal and will work with the City to identify and use minority subcontractors to the extent commercially reasonable.
3. **City / Authority Participation.** In order to satisfy the City's expressed need for additional public parking, the City's expressed desire for a 3,500 person capacity entertainment venue

and additional family-friendly entertainment offerings, and the expressed aspiration to provide a higher level of development quality, high quality entertainment and a mix of retail and restaurant components, the Authority will enter into several agreements with the Developer to facilitate the development of the Project. They are described below:

- a. To satisfy the expressed need for additional public parking, the Developer shall construct and sell to the Authority, and the Authority shall purchase from the Developer, the Parking Facilities pursuant to a Condominium Parking Unit Purchase Agreement in form and substance mutually satisfactory to the Authority and the Developer. The Authority shall provide funding for the design, development and construction of the Parking Facilities on a pay-as-you-go basis. The Authority will pay actual costs based on design and a guaranteed maximum price contract proposal obtained through a mutually acceptable competitive process, currently programmed for \$30,000.00 per space with design and pricing to be finalized in the pre-development period described below. Inclusive in the Authority's costs shall be a Development Fee for the Parking Facilities equal to 2% of the total cost for same. This fee will be payable on mutually agreeable terms. The Authority shall operate and collect revenues from the parking facilities contained therein in the same manner as other publically-owned parking facilities at the Oceanfront. The Authority shall grant to the Developer a mutually agreeable parking license wherein the Developer, or its successors and assigns, shall have the exclusive right to use a designated number of parking spaces throughout the Project, with the locations and cost of such Parking License to be established in the development documents.
- b. To satisfy the expressed desire for a 3,500 person capacity entertainment venue, the Developer shall construct and sell to Authority, and the Authority will provide funding for the design, development and construction of the Entertainment Venue on a pay-as-you-go basis. The Authority will pay actual costs not to exceed \$30,000,000 with pricing established by design and a guaranteed maximum price contract proposal obtained through a mutually acceptable competitive process and finalized in the development documents. Inclusive in the Authority's costs shall be a Development Fee for the Entertainment Venue equal to 2% of the total cost paid by Authority. This fee will be payable on mutually agreeable terms. Prior to completion of the Entertainment Venue, the Authority shall enter into a lease with Oak View Group ("OVG") and/or its affiliates, in which OVG shall lease and operate such venue on terms to be mutually negotiated among the parties. OVG shall contribute a minimum of \$5,000,000 to the cost of the Entertainment Venue with OVG's contribution made pro rata throughout the design and construction period.

- c. To satisfy the expressed aspiration to provide a higher level of development quality, the Authority shall provide funding for the design, development and construction of the Streetscapes. Such amount shall be paid to the Developer on a pay-as-you-go basis for actual costs not to exceed \$7,500,000. The Developer shall agree that the Project will be subject to a special assessment established pursuant to a Special Services District (“SSD”), which will pay for certain enhanced services at the Project, and for maintenance and upkeep of all Streetscapes. The SSD rate will be set by City Council after consultation with the Developer during the pre-development period described below. The Developer shall reserve the exclusive right to service all areas of the Project for concessions, umbrellas, cabana service, food and beverage service, and all other vending or services comparable to the operation of a mixed-use development of this quality, subject to applicable permits and licenses.
  
- d. To satisfy the expressed aspiration to provide high quality entertainment, experiential retail with a mix of retail and restaurant components, the City and Authority have agreed to provide or cooperate with certain incentives (collectively, the “Incentive”) consisting of (i) assisting the Developer in qualifying for Tier II TDFP financing contemplated by Va. Code Section 58.1-3851.2 (“TDFP”), with the City’s additional ½ percent share coming from the TIP Fund, and (ii) providing an annual performance grant in an amount when added to the TDFP sufficient to yield a total Incentive of up to \$5,000,000 per year for twenty years (the “Performance Grant”) based on the integrated project scope, with a development budget currently estimated at \$227,500,000. Other than as described below, the Performance Grant will be payable solely out of tax revenues generated by the elements of the Project owned by Developer and otherwise payable to the TIP Fund. The Performance Grant will be payable quarterly in arrears.
  
- e. During the first three years of stabilization (meaning the first 3 years after substantial completion of the Project as described above), it is anticipated that Developer may not generate sufficient Net Operating Income, which when combined with TDFP and the Performance Grant amount, to attain a Return on Cost of 10%. To address this potential shortfall, the parties will agree to increase the Performance Grant to achieve Return on Cost of 10% in stabilized years 1-3 with a corresponding reduction in the Performance Grant in the final three years. During this period, in addition to the revenues identified above, Developer shall receive credit for the value of all taxes paid at the Project, provided that such amounts shall be paid by the TIP Fund and not the General Fund.
  
- f. To satisfy the expressed aspiration for a pedestrian-oriented cohesive development project, with the features described above, the City has authorized the transfer of title

of the Project to the Authority. After approval of this Term Sheet the City and Authority will consummate that transaction and the Authority shall apply to the City for (i) the administrative reclassification of the use of the Eighteenth Street right of way between Arctic and Pacific Avenues, and (ii) conditional closure of Nineteenth Street between Arctic and Pacific Avenues.

**4. Next Steps**

- a. Public briefing of Term Sheet on January 8, 2019
- b. Public Comment and City Council vote on Term Sheet on January 15, 2019
- c. Authority vote on Term Sheet on January 15, 2019
- d. Development of definitive, binding documents. Included in the documents will be a “pre-development period” where the parties will agree to jointly fund design of the Project to allow definitive pricing to be attained. At execution of definitive documents (which will follow additional public outreach and a vote by both City Council and the Authority) the parties will have agreed on guaranteed maximum price contracts and the Authority’s audit and cost verification rights for all elements of the Project being constructed and a competitive bidding process for the construction work paid for by the Authority. The parties will also agree on a plan of finance for the Project.
- e. At the time of execution of the definitive documents, the Authority and City will enter into a support agreement whereby the City agrees to fund the Authority’s obligations for the Project.