



CITY OF VIRGINIA BEACH AGENDA ITEM

ITEM: An Ordinance Authorizing a Modification to the Terms of the Comprehensive Agreement Between the City of Virginia Beach and 25th Street Associates, LLC to Allow for the Sale of the Completed Parking Garage Before Final Completion of the Other Improvements

MEETING DATE: March 11, 2014

■ **Background:** the City of Virginia Beach (the “City”) and 25th Street Associates, LLC (“25th Street”) are parties to a comprehensive agreement dated as of February 28, 2013 (the “Comprehensive Agreement”). The Comprehensive Agreement provides for the development of various improvements on a 2.18-acre parcel located at 310 25th Street between Pacific and Arctic Avenues (GPIN 2427-09-5787), formerly utilized as a municipal parking lot (the “Property”).

The Comprehensive Agreement was approved by City Council on February 12, 2013, by Ordinance ORD-3263S, pursuant to the process set forth in the Virginia Public-Private Education Facilities and Infrastructure Act of 2002 (“PPEA”) and the City guidelines adopted pursuant to the PPEA.

As set forth in the Comprehensive Agreement, 25th Street has purchased the Property from the City for the appraised value of \$7,650,000, and is undertaking the construction of the following improvements (collectively, the “Improvements”):

- 1) Apartment complex with 147+/- units (the “Apartments”);
- 2) “iFly” entertainment facility consisting of 8,000+/- sq. ft. (the “Entertainment Facility”);
- 3) Commercial space of 2,500+/- sq. ft. (the “Commercial Space”); and
- 4) Structured parking garage containing 565+/- parking spaces, of which approximately 347 would be dedicated for use by the general public (the “Parking Garage”)

The Comprehensive Agreement contemplates the City acquiring the Parking Garage from 25th Street following completion of construction of all the Improvements for the sum of \$7,650,000, plus an incentive payment equal to ninety percent (90%) of the

admissions taxes generated at the Entertainment Facility, not to exceed \$2,100,000. As set forth in the Comprehensive Agreement, the Parking Garage will be acquired subject to a lease for approximately 216 (not to exceed 230) parking spaces for use by the Apartments (the "Lease"). The total consideration paid by the City for the Parking Garage is for the value of the public spaces only and not the spaces subject to the Lease.

25th Street has requested an amendment to the Comprehensive Agreement to cause the City to purchase the Parking Garage when that element is complete, even if the other elements of the Project are not. All other terms and conditions of the Comprehensive Agreement would remain unchanged.

■ **Considerations:** The requested change to the Comprehensive Agreement does not allow the Developer to convey the Parking Garage before it is complete and ready for occupancy. The Parking Garage will have a certificate of occupancy and be ready for use by the public as soon as the City installs revenue collection equipment. No certificate of occupancy for the Parking Garage will be issued unless and until the Parking Garage can be operated as a public parking facility consistent with all applicable codes and regulations.

If the amendment is approved, the City would potentially gain use of the Parking Garage for public parking several months earlier than under the original terms of the Comprehensive Agreement.

The term of the Lease (and the Apartments' exclusive right to use the leased spaces) will not commence until the Apartments have received a certificate of occupancy. Therefore, if the Parking Garage is acquired prior to completion of the Apartments, the City will have the additional benefit of using all the parking spaces in the Parking Garage until the Apartments are complete.

The date all of the Improvements must be completed remains the same – December 31, 2015.

- **Public Information:** Advertisement of City Council Agenda.
- **Alternatives:** Approve the Ordinance as presented, deny approval of the Ordinance, or add conditions or modifications as desired by Council.
- **Attachments:** Ordinance
Amended Summary of Terms
Location Map

Recommended Action: Approval

Submitting Department/Agency: City Manager

City Manager: