

Outline
Project Development Documents
Event Center Village

July 22, 2019

I. Project Development and Cooperation Agreement between the City of Rocky Mount (the “City”) and Hunt Services, Inc. (the “Developer”)

- Sets out the fundamental terms of the agreement between the City and the Developer for the development of the Project, including timelines, cost and general description of the Project
- Required under N.C.G.S. Section 143-128.1C (the “PPP Act”) for any public asset constructed using a public private partnership procurement method
- Describes plan of finance (2.2):
 - City will ground lease the City Land (currently the Event Center parking lot bounded by Albemarle Avenue, Goldleaf Street, Atlantic Avenue and Ivy Street) to the Developer; Developer will have the exclusive right to develop a hotel on the City Land; the Developer will own the Hotel
 - Developer will be responsible for acquiring addition land for the Project (the “Developer Land”)
 - Developer will design develop and construct a parking facility on the City Land, and a Mixed-Use Building on Developer Land
 - City has approval rights for the Site Plan and Plans and Specifications for the Parking Facility (3.2), and for specified significant changes (including changes relating to location of Hotel and Parking Facility, changes to the Parking Facility affecting design, number of spaces or cost)

A. Project Description (3.6)

- a. Hotel. The Hotel has 100-130 rooms; located on the City Land (although a portion of the Hotel may be on contiguous Developer Land); must be operated under an Approved Hotel Flag (i.e. Hilton or Marriott brand); cost not less than \$14,755,000.00.
- b. Parking Facility. Parking Facility to be located on the City Land in close proximity to the Hotel with 700 spaces unless a different number of spaces is approved by the City; total cost of the Parking Facility shall not exceed \$17,750,000.00 unless such increased cost is expressly approved by the City; City has the right to approve the Parking Facility Construction Plans.
- c. Mixed-Use Building. The Mixed-Use Building consists of 20,000 square feet of Retail Space on the ground floor, and Residential Space consisting of an estimated 60 units of residential condominiums or apartments in one or more

stories above the ground floor.; expected to be located on Developer Land; cost not less than \$16,825,000.00.

- B. Project Schedule (3.2(c))
 - a. Completion date for the Hotel on or before December 31, 2020
 - b. Completion date for the Parking Facility on or before December 31, 2020
 - c. Completion date for the Mixed-Use Building on or before December 31, 2021

- C. City Land (3.8): upon execution of the Development Agreement, Developer will have exclusive option to ground lease the City Land for construction of Hotel and Parking Facility; option lasts one year or until Development Agreement terminated if sooner (because of failure to meet certain conditions to closing).

- D. Parking Facility (3.7): Upon completion, City will enter into a twenty year lease of the Parking Facility (the "Capital Lease"). The amount of the lease payments due under the Capital Lease reflect the final costs of construction of the Parking Facility plus (A) up to \$600,000.00 for land acquisition (based on the actual cost thereof) and (B) up to \$400,000 for the cost of connecting utilities to the Site (based on the actual cost thereof) (collectively, the "Final Parking Facility Costs"). The lease payment due under the Capital Lease is equal to the Final Parking Facility Costs, amortized over twenty (20) years at an interest rate equal to the City's Cost of Capital. City will receive copies of "as built" plans for the Parking Facility

- E. Conditions to Closing (4.1):
 - a. Release of City Land from new markets tax credit (NMTC) lien
 - b. Opinions from bond counsel and NMTC counsel that release and use of City Land for Hotel/Parking Facility will not have an adverse effect on 2017 Special Obligation Bonds or NMTC financing
 - c. City has obtained all necessary consents, including LGC approval, to Capital Lease and Ground Lease
 - d. Developer provides evidence of financing and executed contract with Approved Hotel Flag

- F. Construction (3.3)
 - a. Developer to commence construction within 90 days so long as Closing occurs in September
 - b. Developer must obtain City approval to construction plans for Parking Facility
 - c. Developer must use best efforts to recruit and select small business entities and to comply with NC laws relating to participation by minority and historically underutilized businesses
 - d. The Developer shall provide a performance and payment bond in the amount of 100% of the total anticipated amount of the construction contracts for the Hotel, Parking Facility and Retail Facility (\$41,160,000) as required by N.C.G.S. Section 143-128.1C(g)

G. Termination (4.2)

- a. Developer may terminate the Development Agreement prior to Closing if Developer, in its sole discretion, determines (i) that the Project is not economically feasible, or (ii) that any aspect of its due diligence investigations of the Project is unsatisfactory (such due diligence investigations will include, without limitation, title and encumbrance review and analysis, boundary line, easement and topographical surveys, soil sampling and boring tests, environmental and hazardous waste and substance investigations and such other engineering and mechanical analysis and investigations as the Developer may require)
- b. Developer may terminate the Development Agreement if City is not able to obtain LGC approval for the Capital Lease on or before October 1, 2019, at which point City will be obligated to reimburse Developer certain costs (subject to negotiation)
- c. City may terminate the Development Agreement if Developer is not able to provide evidence of contract with Approved Hotel Flag and/or evidence of financing in place on or before October 1, 2019, at which point Developer will be obligated to reimburse City certain costs (subject to negotiation)

H. Assignment (6.5)

No assignment without consent of the City or to an affiliate of the Developer (and only if Hunt Services, Inc. remains liable for the obligations of the Developer)

II. Ground Lease between City and Developer relating to the City Land.

- Long term (65 years) ground lease of City Land on which Developer will build Hotel and Parking Facility (2.1, 2.3); Land and all improvements are the “Premises”
- Developer has the right to subdivide the City Land into two lots so long as such subdivision is approved by the City in accordance with its usual subdivision process
- Rent: Base Rent of \$1.00 (3.1) per year PLUS Percentage Rent equal to 5% of Hotel Net Revenues (defined as Gross Revenues less Operating Expenses; operating expenses to exclude any management fee paid to Developer) (3.2).
- Developer also pays as Additional Rent all costs and expenses relating to the ownership, use, occupancy, operation, maintenance and repair, insurance, taxes and assessments for the City Land (3.3)
 - Developer to pay all Assessments (i.e. taxes, government charges, etc.) (4.1)
- Improvements and personal property will be property of Developer until (a) Parking Facility is transferred to the City under the Capital Lease and/or (b) the Ground Lease terminates, at which point City will own the improvements.
- Developer permitted to obtain financing for the improvements and to allow a Leasehold Deed of Trust to secured the financing (5.4)

- Developer must comply with all applicable laws, including environmental laws (6.1, 6.2)
- Developer to maintain the Premises in an orderly and safe condition, in a good state of repair, and in a manner consistent with the standards of operation and maintenance of first class properties similar to the Premises, make or cause to be made such repairs, replacements and alterations to the Premises (Article VII)
- Developer to maintain (or cause to be maintained) insurance on Premises at levels specified (Article VIII); City must be named insured; Certificate of insurance to be delivered to City annually (Article VIII)
- Developer agrees to indemnify the City against any liability or damages arising from operations or activities by the Developer on the Premises during the term (Article IX)
- No assignment except with City approval or to an entity related to the Developer so long as the Developer (or Developer Affiliate) has at least 50% control (Article XII)
- Following a material Event of Default (other than a covenant default), City can require Developer to vacate the premises (Articles XIV and XV)

III. Capital Lease Agreement relating to Parking Facility between Developer and City

- Parking Facility (consisting of multistory structure with 700 spaces) is leased to the City; Hotel guests get exclusive use of 140 spaces (designated by Developer) (Article 2, Section 5.1)
- Developer responsible for construction (Article 3)
- Commences on the date of issuance of a Certificate of Occupancy, and continues for 20 years thereafter. (4.1)
- Basic Lease Payments commence on the Commencement Date and are paid quarterly; will be equal quarterly installments based on the Final Parking Facility Costs (not to exceed \$17,750,000), amortized in equal quarterly installments calculated at the City's Cost of Capital (4.2)
- City also pays a management fee of 3% of gross revenue generated from the operation of the Parking Facility during the previous lease year, and a renewal and replacement reserve equal to 4% of the total gross revenue generated by the Parking Facility; Developer required to use renewal and replacement reserve funds for maintenance of Parking Facility (4.2)
- All revenues from Parking Facility (after payment for management fee, R&R reserve, property taxes and insurance) are payable to the City (for both public spaces and Hotel spaces) (4.1)
- City has the option to purchase the Parking Facility for \$1.00 after end of the 20 year term (8.1); City then obligated to lease back the 140 Exclusive Spaces for the Hotel to the Developer (8.1)