

STATE OF GEORGIA
COUNTY OF FULTON

RESOLUTION OF THE CITY OF SANDY SPRINGS TO APPROVE FORMS OF: (A) CONTINGENT PAYMENT AGREEMENT BY AND BETWEEN THE CITY OF SANDY SPRINGS PUBLIC FACILITIES AUTHORITY (“AUTHORITY”) AND SANDY SPRINGS CITY CENTER, LLC (“DEVELOPER”); AND (B) RESTRICTIONS ON LEASING AGREEMENT BY AND BETWEEN THE AUTHORITY AND THE DEVELOPER; AND OTHER MATTERS, ALL AS CONTEMPLATED BY THAT CERTAIN REAL ESTATE ACQUISITION AGREEMENT BETWEEN THE CITY AND DEVELOPER CONCERNING CITY SPRINGS, APPROVED BY CITY COUNCIL ON AUGUST 18, 2015

WHEREAS, in June 2014, Council for the City of Sandy Springs (“City”) selected a team consisting of Carter & Associates, LLC and Selig Enterprises, Inc. (“Carter/Selig”) to work with the City to develop the residential and retail components of the City Springs project (“Project”); and

WHEREAS, to develop the residential and retail components of the Project, Carter/Selig formed Sandy Springs City Center, LLC, a limited liability Company (“Developer”); and

WHEREAS, City Council authorized the City Manager to negotiate an agreement with the Developer to outline the basic terms of the Developer’s interest in and use and operation of the Project; and

WHEREAS, pursuant to City Council’s authorization, the Developer, the City Manager, City consultants and the City Attorney negotiated the basic terms of the Developer’s interest in and use and operation of the Project in the form of a letter of intent/term sheet (“LOI”); and

WHEREAS, the negotiated LOI was approved by City Council on March 3, 2015; and

WHEREAS, on August 18, 2015, City Council approved the terms of a formal Real Estate Acquisition Agreement between the Developer and the City (“Acquisition Agreement”) based on the terms of the LOI; and

WHEREAS, the approved Acquisition Agreement contemplated that several additional agreements would be entered between the City and the Developer in connection with the Project; and

WHEREAS, four (4) such additional agreements were approved by Council on April 19, 2016 including: the Master Lease Agreement by and between the Authority, as Lessor, and Developer, as Lessee; the Declaration of Parking Easements and Cost Sharing Agreement made by the Authority with consent by Developer; Master Declaration of Covenants, Conditions and Restrictions made by the Authority; and the City Improvements Completion and Escrow Agreement by and among Developer, the City, and Chicago Title Insurance Company; and

WHEREAS, other agreements contemplated by the Acquisition Agreement and required for closing the transaction with the Developer include a Contingent Payment Agreement and a Restrictions on Leasing Agreement; and

WHEREAS, in accordance with the provisions of the Acquisition Agreement, the basic terms of the Contingent Payment Agreement and the Restrictions on Leasing Agreement are currently being negotiated by the parties; and

WHEREAS, the City currently owns the property on which the Project is located, but it will be conveyed to the City of Sandy Springs Public Facilities Authority ("Authority") prior to conveyance to the Developer; therefore, the documents are made between the Authority and the Developer; and

WHEREAS, because the City currently owns the property on which the Project is located, it is appropriate for City Council to consent to the Authority entering into the Contingent Payment Agreement and the Restrictions on Leasing Agreement, and any other documents contemplated by the Acquisition Agreement and for the City Manager and the City Attorney to participate in negotiations with the Developer and to approve documents related to the Project; and

WHEREAS, the Contingent Payment Agreement contains certain terms and conditions governing calculation and payment terms and conditions relating to contingent payments to be made to the Authority by the Developer, a draft of which is attached hereto; and

WHEREAS, the Restrictions on Leasing Agreement contains certain terms and conditions regarding marketing of the outparcel located at the southeastern corner of the City Springs property and grants to the Developer certain marketing rights commencing on the effective date of the Acquisition Agreement and expiring two (2) years following the issuance of a building permit for the performing arts center, a draft of which is attached hereto; and

WHEREAS, while the City Attorney and the Developer believe the Contingent Payment Agreement and the Restrictions on Leasing Agreement are in substantially final form and resolve all substantive issues between the parties relating thereto, minor revisions may be required; and

WHEREAS, the Acquisition Agreement also anticipates an agreement with the Developer containing terms and conditions for the licensing of certain intellectual property to be used in connection with development of the Project; and

WHEREAS, the Acquisition Agreement also anticipates additional documents needed to coordinate construction at the Project including, but not limited to, a construction staging agreement (referenced as a Right of Entry Agreement in the Acquisition Agreement) and various other documents granting easements to enable the Project to move forward as contemplated; and

WHEREAS, the City desires to approve the Contingent Payment Agreement and the Restrictions on Leasing Agreement, subject to such revisions as may be agreed by the parties and approved by the City Manager and the City Attorney; and

WHEREAS, City Council desires to authorize the City Manager and the City Attorney to work with the Authority to negotiate and execute an agreement with the Developer for the licensing of certain intellectual property to be used in connection with development of the Project; and

WHEREAS, City Council desires to authorize the City Manager and the City Attorney to work with the Authority to negotiate such documents as may be necessary to coordinate construction of the Project including, but not limited to, a construction staging agreement and other documents granting various easements to enable the Project to move forward as contemplated.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sandy Springs at its meeting on May 3, 2016, as follows:

1. The Contingent Payment Agreement is hereby approved in the basic form attached to this resolution, subject to such revisions as may be agreed by the parties and approved by the City Manager and City Attorney;

2. The Restrictions on Leasing Agreement is hereby approved in the basic form attached to this resolution, subject to such revisions as may be agreed by the parties and approved by the City Manager and City Attorney;

3. Following execution of the Contingent Payment Agreement and Restrictions on Leasing Agreement, the City Attorney shall report back to City Council any changes, additions, or deletions made to such documents subsequent to adoption of this resolution;

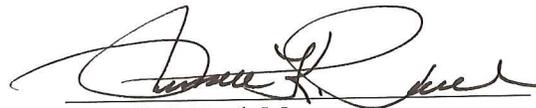
4. The City Manager and City Attorney are hereby authorized to take any and all steps necessary to assist the Authority in negotiating an agreement with the Developer for the licensing of certain intellectual property to be used in connection with development of the Project;

5. The City Manager and City Attorney are hereby authorized to take any and all steps necessary to assist the Authority in coordinating construction of the Project including, but not limited to, negotiating construction staging and easement documents to effectuate the same;

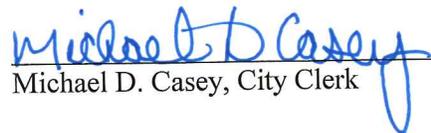
6. The City Manager and the City Attorney are hereby authorized to take any and all other steps which may be necessary to effectuate the intent of this resolution.

RESOLVED this the 3rd day of May, 2016.

Approved:


Russell K. Paul, Mayor

Attest:


Michael D. Casey, City Clerk

(Seal)

