

**Storrs Center Development Agreement, Phases 1A and 1B**  
**Town of Mansfield, SCA and EDR**  
**Outline of Key Terms**  
**12/09/10 Draft**

**Objectives**

- Adhere to community's vision for Storrs Center
  - Create a civic town center
  - Mixed use project
  - Apply principles of intelligent land use and sustainability
  - Enhance town's tax base
- Maximize use of federal and state grant funds to support public infrastructure
- Finance any Town contribution to capital elements of the project via NET revenue derived from completed phases of the project
- Design operational structure of garage and parking system to be ultimately self-supporting; parking revenues to cover costs re operation, maintenance and deferred maintenance
- Negotiate an agreement that is fair and equitable and is cognizant of the interrelationship between the parties

(NOTE: This is intended to be a 3-party agreement – Town, LeylandAlliance (doing business as SCA) and EDR. SCA and EDR are collectively referred to as the “developer parties.”)

**Article 1 - Definitions & Recitals**

- See “Force Majeure Event” which provides the permitted exceptions to any party's obligations to perform its obligations

**Article 2 – Phases 1A & 1B**

- Acknowledges the relationship between the parties and the fact that the developer parties have commissioned plans for the project. Highlights the force majeure section and references the Phase 1A/1B schedule.

**Article 3 – Development of Intermodal/Parking Facility**

- Highlights the obligations of the Town to construct the 540-space facility using grant proceeds. Town to develop alternate design (650 spaces) if budget allows. If aggregate estimated costs exceed grant funds Town has the right to adjust project scope to reduce costs, but must consult with developer parties on any material changes. Town must reasonably consider developer parties' reasonable comments.
- Town shall construct alternate design if budget allows; developer parties have right to fund any budget deficiency to allow construction of alternate design.
- SCA shall convey land to Town for \$0 (Town may take directly from UConn)
- Parties acknowledge that they have asked DECD to modify grant agreement to proceed to construction on a more limited first phase (1A/1B as opposed to all of Phase 1)

#### **Article 4 – Development of Storrs Road and Dog Lane Improvements**

- Highlights obligations of the Town to construct improvements using grant proceeds. If aggregate estimated costs exceed grant funds Town has the right to adjust project scope to reduce costs, but must consult with developer parties on any material changes. Town must reasonably consider developer parties' reasonable comments.
- SCA shall convey land to Town for \$0 (Town may take directly from UConn)

#### **Article 5 – Development of Transit Pathway Improvements (Village Street)**

- Highlights obligations of the Town to construct improvements using grant proceeds. SCA to provide 20% match less amount of fire marshal fees (\$371,000).
- (Design on the element of the project has not begun yet). If aggregate estimated costs exceed grant funds Town has the right to adjust project scope to reduce costs, but must consult with developer parties on any material changes. Town must reasonably consider developer parties reasonable comments. Town has right to reject federal grant if Town cannot reasonably adjust scope of project to come within budget, in which case the parties shall cooperate to otherwise construct Village Street, such as using other grant funds or SCA using its match funds to build less expensive road.
- SCA shall convey land to Town for \$0 (Town may take directly from UConn)

#### **Article 6 – Environmental**

- Highlights obligations of SCA to investigate and clean-up any environmental contamination on land to be conveyed to the Town. SCA to deliver phase 1 environmental reports by 12/31/10 (will need to extended).
- If, based upon environmental reports or notice from grant agency, Town cannot accept a particular parcel, the parties will cooperate to seek alternatives. Town reserves right to reject conveyance.
- SCA shall indemnify and defend the Town if SCA fails to meet its obligations under this article
- Parties recognize that SCA has executed agreements with UConn and UConn may have some responsibility to share remediation costs, which shall not relieve SCA of its obligations to the Town

#### **Article 7 – Governmental Approvals**

- Highlights obligations of the parties to obtain necessary permits and approvals for improvements under their control
- States that execution of development agreement is not intended to supplant or influence role of Town's permitting authorities (e.g. PZC, IWA)
- Highlights responsibilities of parties to satisfy conditions of state traffic commission (STC) certificate for road improvements; acknowledges that parties are seeking relief from obligation to post \$6M bond (we anticipate that ConnDOT will approve this request) – if request is not approved, Town shall be required to post the bond using grant proceeds (estimated costs \$25-\$30,000)

## **Article 8 – Developer Party Improvements**

- Highlights obligations of developer parties to construct private improvements
  - Phase 1A minimum of 25,000 square feet of commercial/retail office and 120 residential units (restriction against dormitory style construction)
  - Phase 1B minimum of 35,000 square feet of commercial/retail office and 140 residential units (restriction against dormitory style construction)
- Highlights obligations of EDR to construct \$1.765M of certain infrastructure (improvements to Dog Lane; road between Dog Lane and Village Street; improvements to post office site; Town Square improvements; road on eastern side of Town Square). If estimated costs exceed budget, the developer parties have the right to adjust project scope to reduce costs, but must consult with the Town on any material changes. The developer parties must reasonably consider the Town's reasonable comments. Any remaining surplus to be allocated to other public improvements, relocation costs or other public portions of project.
- If cost of public improvements or developer party infrastructure exceeds budget, and parties cannot reduce scope to come within budget, SCA shall fund deficiency in exchange for future tax abatement with an annual return of 8%, subject to terms to be agreed upon by Town and SCA
- Provides for tax abatement to EDR for Phases 1A and 1B; 7-yr schedule for both abatement periods spread over 8 years. Aggregate amount approx \$4.5M (\$3M at 8% discount rate).
- Provides for cap on building & fire marshal permit fees. Cap is designed for full cost recovery of direct inspection services and set at \$12/\$1000 of construction; Town has right to adjust fees every 3 years based upon CPI. Town will seek to amend its building and fire marshal fee schedule to allow for lower fees of this type and value, as present permit fees exceed cost to inspect projects of this scope. If amendment is not approved, Town shall refund excess fees via tax abatement on future phases.

## **Article 9 – Parking**

- Parking to consist of structure (garage), surface (Dog Lane lot) and on-street (interior streets, Storrs Road)
- EDR shall lease 425 spaces (approx 350-375 in garage) at an initial rate of \$60/month per space; rate shall be adjusted every 3 years according to CPI, not to exceed 10% in any 3-yr period. Term of "residential component parking term" is set at 98 years. EDR to lease 212 spaces at completion of 1A and balance at completion of 1B; EDR spaces to be segregated in structure.
- Town shall fund "Repair and Replacement Reserve" on annual basis to fund capital repairs
- Town to carry specified replacement cost insurance through current carrier. In the event of casualty covered by Town's insurance (or casualty that would have been covered if Town carried required insurance), Town shall restore garage to substantially same condition prior to casualty. If casualty not covered by specified insurance, Town has right to terminate lease and developer parties have right to acquire property and balance of reserve fund for \$1 "as is with all faults."

- If garage is not completed in accordance with schedule, the Town will use reasonable commercial efforts to provide interim substitute parking (EDR shall pay for such interim parking)
- During first 50 years of parking garage term, Town to maintain garage in good order and condition and to make all necessary capital improvements, using funds available in reserve fund as well as other Town funds
- Beginning in 51st year, Town to continue to maintain garage in good order and condition but liability limited to funds available in reserve. If Town determines garage needs to be rebuilt Town may terminate lease and developer parties have right to acquire property and balance of reserve fund for \$1 "as is with all faults."
- The Town shall set the parking rates for parking under its control, subject to SCA's reasonable approval. SCA shall set the parking rates for parking under its control, subject to the Town's reasonable approval.
- During Public Garage Term, Town may not transfer garage to private entity but may transfer ownership to public agency subject to developer parties' reasonable approval
- Town shall set the parking rates for parking under its control, subject to SCA's reasonable approval. SCA shall set the parking rates for parking under its control, subject to the Town's reasonable approval.
- Highlights obligations of SCA to assume management of parking for an initial 7-yr period. SCA shall collect all proceeds and assume liability for any operational deficit. Any net operating income (NOI) to be shared as follows:
  - 100% to reimburse SCA for any previous operating deficit
  - 50% to Town and 50% to SCA until reserve is fully funded
  - 100% to SCA as its sole compensation for operating garage
- SCA and the Town will agree to a parking management agreement that shall be executed no later than the commencement of construction of the garage

#### **Article 10 – Relocation**

- Provides that eligible relocation costs for existing tenants within the Phase 1A/1B area shall be split 50/50 between the Town and SCA (consistent with our current letter of understanding)

#### **Article 11 – Town Square**

- Highlights the obligations of the Town to maintain the square and that the property shall be conveyed to the Town for \$0
- Provides that SCA shall have the exclusive right to license the square for portable retail kiosks for an initial term of 10 yrs, for an annual license fee equal to 20% of NOI. Town shall have right to approve SCA specific commercial uses of the square, including the number, location and use of kiosks.
- Developer parties have right to use square for events and marketing purposes, subject to Town ordinances, rules and regulations
- Stipulates that provisions of license agreement between Town and SCA ("Town Square License Agreement") shall not interfere with public's First Amendment Rights

### **Article 12 – Public Streets, Easements and Construction Coordination**

- Highlights responsibilities of the parties re dedication of public streets, the negotiation of easements and licenses, construction coordination, safety precautions and due diligence inspections

### **Article 13 – Conveyance of Open Spaces**

- Provides that Town agrees to accept conveyance of conservation areas, subject to conditions of open space acquisition policy

### **Article 14 – Cooperation**

- Highlights responsibilities of the parties to cooperate in good faith and in a reasonable manner

### **Article 15 – Dispute Resolution**

- Establishes dispute resolution process consisting of negotiation, mediation and arbitration

### **Article 16 – Representations & Warranties**

- Highlights representations & warranties of the parties, including due authorization, control of real property and litigation & default

### **Article 17 – Restrictions on Transfer & Default**

- Establishes the provisions for a transfer of interest and mortgages. Developer shall have the right to enter into individual space leases. Town's tax levies shall be superior to any mortgage.

### **Article 18 – Defaults and Remedies**

- Establishes occurrences that constitute default as well as remedies. The agreement may not be terminated during dispute resolution proceedings.

### **Article 19 – Special Conditions**

- Highlights the conditions that the developer must satisfy before the Town initiates construction on the garage ( to make sure developer is ready to proceed):
  - Obtain building permits for Phase 1A
  - Construction of Phase 1A has commenced
  - Acquire title to all Phase 1 and other necessary property
  - Obtain binding construction loan commitments
  - UConn/SCA infrastructure agreements have not been amended in manner that would materially affect project without approval from the Town
  - No developer party has defaulted under the agreement
  - DECD has approved the modification to garage grant agreement
  - Provide evidence of ability to complete improvements in accordance with project schedule

- Provides the conditions precedent to the developer's obligations
  - The Town has issued all building permits for phase 1A improvements
  - The Town has confirmed that it is prepared to enter into construction contracts for the public improvements and expects to complete the improvements on schedule
  - The Town has not defaulted under the agreement

**Article 20 – Notices**

- Provides the notice provisions

**Article 21 – Restricted Uses and Transfers**

- Prohibits any facility that would constitute an adult-oriented establishment
- Restricts developer from transferring private improvements to tax-exempt entities for a period of 20 years, without the consent of the Town of Mansfield
- Provides that restrictions run with the land

**Article 22 – Insurance and Indemnification**

- Provides insurance to be provided during construction period, the acceptability of insurers, indemnification of the Town and indemnification of the developer parties

**Article 23 – Business Improvement District; SCA Assistance**

- Provides that parties will cooperate to investigate forming business improvement district (to provide additional funding for maintenance, marketing, programming, etc.
- Provides that SCA is willing to provide construction services to Town for reasonable fee

**Article 24 – Miscellaneous**

- Highlights various misc provisions such as applicable law (CT), severability, confidentiality of information and authorized representatives