



REQUEST FOR COUNCIL ACTION

City of Greenville, South Carolina

Agenda Item No.

15b

TO: Honorable Mayor and Members of City Council
FROM: John F. McDonough, City Manager

Ordinance/First Reading Ordinance/Second & Final Reading Resolution/First & Final Reading Information Only

AGENDA DATE REQUESTED: April 27, 2020

ORDINANCE/RESOLUTION CAPTION:

ORDINANCE TO APPROVE THE FIRST AMENDMENT TO A DEVELOPMENT AGREEMENT WITH CENTRAL REALTY HOLDINGS, LLC FOR A PROJECT LOCATED AT 2 WADE HAMPTON BOULEVARD (NORTHPOINTE)

SUMMARY BACKGROUND:

Central Realty Holdings, LLC (the "Owner") and the City of Greenville (the "City") entered into a Development Agreement on November 29, 2016 (the "Development Agreement") for the NorthPointe development project located at 2 Wade Hampton Boulevard.

Per the Development Agreement, the City agreed to pay (a) the Owner up to \$600,000 for approved expenditures associated with certain public infrastructure improvements, and (b) Duke Energy Carolinas up to \$200,000 for lighting improvements, including installation of underground conduit to service streetlights and pedestrian lights associated with the project.

However, during construction, due to unforeseen circumstances and scheduling conflicts, Duke Energy Carolinas was unable to complete the conduit installation in a time frame that was compatible with the Owner's schedule for certain site improvements. So, Duke Energy Carolinas instead authorized the Owner to complete the conduit installation.

The City now desires to amend the Development Agreement to allow the City to reimburse the Owner (in lieu of Duke Energy Carolinas) for expenses associated with said conduit installation.

IMPACT IF DENIED:

The Development Agreement will not be amended and the City will not be able to reimburse Central Realty Holdings, LLC for expenses associated with the installation of underground conduit to service streetlights and pedestrian lights associated with the NorthPointe project.

FINANCIAL IMPACT:

No additional funding will be appropriated.

REQUIRED SIGNATURES

Department Director DocuSigned by: *Ginny Stroud*
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OMB Director _____

City Attorney DocuSigned by: *Michael Pitts*
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City Manager DocuSigned by: *John McDonough*
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A N O R D I N A N C E

TO APPROVE THE FIRST AMENDMENT TO A DEVELOPMENT AGREEMENT WITH CENTRAL REALTY HOLDINGS, LLC FOR A PROJECT LOCATED AT 2 WADE HAMPTON BOULEVARD (NORTHPOINTE)

WHEREAS, Central Realty Holdings, LLC (the "Owner") and the city of Greenville (the "City") are parties to that certain Development Agreement recorded on November 29, 2016, in Book DE 2501 at Page 1318 in the Office of the Register of Deeds for Greenville County, South Carolina (the "Development Agreement") for a project located at 2 Wade Hampton Boulevard, Greenville, SC (NorthPointe) (the "Project"); and

WHEREAS, the Development Agreement established the procedures under which the City will reimburse the Owner for approved expenditures associated with certain public infrastructure improvements; and

WHEREAS, due to unforeseen circumstances and scheduling conflicts with Duke Energy Carolinas, the Owner will be responsible for the installation of three inch (3") conduit to service the pedestrian lights and streetlights associated with the Project; and

WHEREAS, the City desires to reimburse the Owner for expenses associated with said conduit installation; and

WHEREAS, the City and the Owner desire to amend the Development Agreement as more fully set forth in the First Amendment to City of Greenville and Central Realty Holdings, LLC Development Agreement for a Project Located at 2 Wade Hampton Boulevard, Greenville, SC (NorthPointe), attached hereto and incorporated herein as Attachment A ("First Amendment").

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GREENVILLE, SOUTH CAROLINA, City Council approves entering into a First Amendment to Development Agreement with Central Realty Holdings, LLC in substantially the same form as that First Amendment to Development Agreement, which is attached hereto and incorporated herein by reference as Attachment A. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the attached documents as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further action by City Council, then the matter shall be presented to Council for further review before the final execution. This Ordinance shall become effective upon passage on the second and final reading.

DONE, RATIFIED AND PASSED THIS THE _____ DAY OF _____, 2020.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED:

CITY MANAGER

public property as well as portions of the Property directly adjacent to public property along North Church Street, Column Street, East Stone Avenue and Wade Hampton Boulevard and (ii) install three inch (3”) conduit to service the aforementioned lighting and equipment (collectively, the “Lighting Improvements”), as more fully set forth in Exhibit A, attached hereto and incorporated herein by reference. Coordination shall include, but not be limited to, maintaining communication with Duke throughout the duration of the Project; scheduling and ensuring installation of the Lighting Improvements; and overseeing coordination with Owner’s contractors. In the event the Lighting Improvements are not installed by December 31, 2023, the Owner shall immediately reimburse the City for all sums paid by the City to Duke as set forth below in Paragraph 2(d). The Owner agrees to provide Duke with a permanent easement for the installation, maintenance and operation of said Lighting Improvements to be located on the Property, directly adjacent to public property along North Church Street, Column Street, East Stone Avenue and Wade Hampton Boulevard. The Owner agrees to provide Duke with executed easement agreement prior to the Owner receiving reimbursement from the City pursuant to Paragraphs 2(a) and 2(b) below.

3. Section 2.d. of the Development Agreement is hereby deleted in its entirety and replaced with the following:

- a. *Pedestrian Lights and Streetlights Participation.* In addition to the Reimbursement Payment called for in Paragraphs 2(a) and 2(b) and subject to the reimbursement contingencies set forth above in Section 2(c), the City (i) agrees to pay Duke a one-time payment not to exceed One Hundred and Sixty Thousand Dollars and No/100 (\$160,000.00) and the Owner a one-time payment not to exceed Forty Thousand Dollars and No/100 (\$40,000) for the Lighting Improvements, as referenced in Paragraph 1(j) above, and (ii) shall be responsible for ongoing service and energy fees associated with the operation and maintenance of said Lighting Improvements. The City will be responsible for final approval of all Lighting Improvements associated with the Project.

4. Except as expressly amended by this First Amendment, the Development Agreement remains in full force and effect and is hereby expressly ratified and confirmed in its entirety by the parties hereto.

5. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(Signatures on the Following Page)

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the day and year first above written.

Signed, sealed and delivered
in the presence of:

CENTRAL REALTY HOLDINGS, LLC

Witness

By: _____

Witness

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF GREENVILLE)

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THE FOREGOING INSTRUMENT was acknowledged before me this _____ day of _____, 2020 by _____ as _____ of Central Realty Holdings, LLC.

_____ [SEAL]

Notary Public for South Carolina

Print Name: _____

My Commission Expires: _____

[Signatures continued on next page]

APPROVED AS TO FORM:

CITY ATTORNEY

REVIEWED BY:

INTERIM ECONOMIC & COMMUNITY DEVELOPMENT DIRECTOR

PUBLIC WORKS DIRECTOR

OMB DIRECTOR

PURCHASING ADMINISTRATOR

EXHIBIT A

