



CITY OF RICHMOND

Chief Administrative Office

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

April 7, 2022

Capital City Development LLC
c/o Concord Eastridge
3160 Fairview Park Drive
Suite 110
Falls Church, Virginia 22042
Attention: Susan H. Eastridge,
Chief Executive Officer and President

Capital City Partners, LLC
1 East Broad Street
Richmond, Virginia 23219
Attention: Michael Hallmark

Project 10th Street Owner LLC
125 S Wacker Drive, Suite 1220
Chicago, Illinois 60606

Re: 500 N. 10th Street - Notice of Developer Default (Development Agreement dated March 30, 2021)

Ms. Eastridge and Mr. Hallmark:

This correspondence pertains to the parcel of land known as 500 North 10th Street (Tax Parcel Number E000-0235/001) (the "Property") and that certain Development Agreement to which the City of Richmond, Virginia (the "City") and Project 10th Street Owner LLC (as successor in interest to Capital City Partners, LLC) (the "Developer") are parties and to which the Property is subject pursuant to the Quitclaim Deed recorded on July 16, 2021 in the Clerk's Office of the Circuit Court of the City of Richmond as Instrument No. 210020377.

Please find this letter as the City's written notice of Developer Default(s), as defined in section 10.1 of the Development Agreement.



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1. Failure to Submit POD for Project / Failure to Perform “all Work necessary to [develop] the Project in accordance with the Milestone Schedule”.

Section 4.1 of the Development Agreement states that the “Developer shall be solely responsible for performing (or, alternatively, Developer shall cause to be performed any portion of) *all Work necessary to design, build*, and where applicable, finance, operate and maintain *the Project in accordance with the Milestone Schedule*, Good Industry Practice, applicable Law, and any other requirements in this Development Agreement and the PSA.” (Emphasis added) The first milestone set forth within the Milestone Schedule is “Submit [Plan of Development] Application” within 8 months after Closing (*i.e.*, within 8 months of July 15, 2021). As of today, more than 8 months after Closing, the Developer has not submitted a Plan of Development application for the Project and, therefore, has failed to perform (or cause to be performed) “all Work necessary to [develop] the Project in accordance with the Milestone Schedule.”

For the avoidance of doubt, although Capital City Partners, LLC submitted a Plan of Development application to the City’s Department of Planning and Development Review on March 14, 2022, such application is clearly seeking regulatory POD approval for an alternative development program on the Property (the “Alternative Plan POD Application”) and in no way constitutes a POD application for the Project as it relates to the Development Agreement. Article 2 (“Project Description”) of the Development Agreement contains a detailed description of the Project and the various components required to be a part thereof. The development for which the Alternative Plan POD Application seeks approval (the “Alternative Development”) clearly does not constitute the Project because it does not include or conform to the provisions set forth in the following sections of Article 2.

A. Dev. Ag. Section 2.2(a):

The Alternative Development is not in accordance with nor does it conform to “the scale and massing shown in the Project Rendering” (Exhibit C to the Development Agreement).

The Project Rendering depicts a high-rise building of approximately 17 stories on the northern side of the Property while no portion of the Alternative Development exceeds 7 stories.



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B. Dev. Ag. Section 2.2(d)(i):

The Alternative Development does not include at least “150,000 Square Footage of Class A office space for use by the Virginia Commonwealth University Health System.”

Rather, the Alternative Development includes zero Class A office space for use by VCUHS.

C. Dev. Ag. Section 2.2(d)(ii):

The Alternative Development does not include at least “90,000 Square Footage of Class A speculative office space” (See Section 2.2(d) (ii) of the Development Agreement.)

Rather, the Alternative Development includes zero Class A speculative office space.

D. Dev. Ag. Section 2.2(d)(v):

The Alternative Development does not include “at least 35,000 Square Footage for a child care facility to be operated, or caused to be operated, by VCUHSA.”

Rather, the Alternative Development includes only 22,261 sq. ft. designated for “child development”/child care.

E. Dev. Ag. Section 2.2(d)(vi):

The Alternative Development does not include “at least 20,000 Square Footage to be used as ground level, street facing retail.”

Rather, the Alternative Development includes zero ground-level, street facing retail.

F. Dev. Ag. Section 2.2(d)(vii):

The Alternative Development does not include “approximately 1,900 parking spaces” nor does it include at least “1,200 structured parking spaces.”

Rather, the Alternative Development includes less than 600 parking spaces.



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2. Failure to “diligently pursue any special use permit, rezoning, or other regulatory approval necessary to increase the building height beyond the height currently permitted by applicable zoning regulations.”

Section 3.2 of the Development Agreement obligates the Developer to “diligently pursue any special use permit, rezoning, or other regularly approval necessary to increase the building height beyond the height currently permitted by applicable zoning regulations.”

To date, the City is unaware of any efforts made by the Developer to pursue “any special use permit, rezoning, or other regulatory approval” to increase the building height beyond the height permitted by applicable zoning regulations.

3. Failure to accurately report “whether the Work is on track with the Milestone Schedule” to “promptly report any material issues or problems.”

Section 4.7 of the Development Agreement requires the Developer to ensure that a report is submitted to the City on a quarterly basis to report “whether the Work is on track with the Milestone Schedule”. Moreover, Section 4.7 mandates that “any material issues or problems” are promptly reported to the City.

In the Dec. 2021 Quarterly Report sent from Susan Eastridge to Leonard Sledge via e-mail on Jan. 5, 2022, the Developer purports that the “Project is on track to meet all the Schedule Milestones” and that “there are no material issues to report.” In February 2022, the Developer informed the City of concerns with Developer’s ability to complete the Project, as described in the Development Agreement. Through subsequent conversations, Developer acknowledged that it first contacted VCUHS with those same concerns in November 2021.

In summary, though Developer became aware of concerns regarding its ability to complete the Project in November 2021 or sooner, (i) not only did the Developer fail to promptly inform the City of such “material issue or problem” but (ii) the Developer’s quarterly report (submitted following Developer’s awareness of such issues or problems) explicitly states that “Project is on track to meet all the Schedule Milestones” and that “there are no material issues to report” despite Developer being aware of material issues or problems giving reason to question its ability to develop the Project and meet the Schedule Milestones.



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This written notice relates solely to the Developer Defaults described herein and is in no way intended to indicate that other Developer Defaults have not previously occurred or do not currently exist. In no way should this correspondence be deemed to be a waiver of any Developer Defaults which may have previously occurred, which may now exist, or which may hereafter occur.

The City expressly reserves the right to pursue and avail itself of any and all rights and remedies at law, in equity, or under the Development Agreement. (See Development Agreement Section 10.2 ("City Remedies Upon Developer Default".))

Sincerely,

J.E. Lincoln Saunders
Chief Administrative Officer

cc: Sharon L. Ebert, Deputy CAO for Planning and Economic Development
Leonard L. Sledge, Director Department of Economic Development
Matthew A. Welch, Senior Policy Advisor to the DCAO
Bonnie Ashley, Deputy City Attorney
Art Kellerman, CEO, VCU Health
Brian Jenkins, Chief Real Estate Officer, VCU Health
Matthew Conrad, VCU and VCU Health, Vice President for Government and External Relations