

INTRODUCED: February 13, 2017

AN ORDINANCE No. 2017-028

To declare a public necessity for and to authorize the acquisition of a 4.956-acre portion of the real property known as 1401 Commerce Road for the purpose of housing the property and evidence center of the Department of Police.

\_\_\_\_\_  
Patron – Mayor Stoney

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: FEB 27 2017 AT 6 P.M.

WHEREAS, in the opinion of the Council of the City of Richmond, a public necessity exists for the acquisition of a 4.956-acre portion of the real property known as 1401 Commerce Road, as more particularly shown on a drawing entitled “Richmond Police PnE Division, Old South District, City of Richmond, Virginia, Conceptual Layout Units 23-26,” prepared by Engineering Design Associates, dated April 13, 2016, and last revised January 12, 2017, for the purpose of housing the property and evidence center of the Department of Police;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

AYES:            9            NOES:            0            ABSTAIN:        \_\_\_\_\_

ADOPTED:      FEB 27 2017      REJECTED:      \_\_\_\_\_      STRICKEN:      \_\_\_\_\_

§ 1. That a public necessity exists for the acquisition of a 4.956-acre portion of the real property known as 1401 Commerce Road and identified as Tax Parcel No. S007-0836/002 in the 2017 records of the City Assessor, as more particularly shown on a drawing entitled “Richmond Police PnE Division, Old South District, City of Richmond, Virginia, Conceptual Layout Units 23-26,” prepared by Engineering Design Associates, dated April 13, 2016, and last revised January 12, 2017, for the purpose of housing the property and evidence center of the Department of Police.

§ 2. That the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to acquire such real property from City Central, LLC for a purchase price not to exceed \$2,632,048.00 and to execute the deed and such other documents as may be necessary to complete the acquisition and acceptance of such real property, provided that the deed and such other documents must first be approved as to form by the City Attorney or the designee thereof and the purchase agreement for the purchase of this property shall be substantially in the form of the document entitled “Real Estate Purchase Agreement” attached to this ordinance.

§ 3. This ordinance shall be in force and effect upon adoption.

O & R REQUEST

JAN 26 2017



CITY OF RICHMOND  
INTRACITY CORRESPONDENCE

Office of the  
Chief Administrative Officer

4-6167

RECEIVED

FEB 01 2017

O&R REQUEST OFFICE OF CITY ATTORNEY

DATE: January 17, 2017 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *[Signature]*

THROUGH: Selena Cuffee-Glenn, Chief Administrative Officer *[Signature]*

THROUGH: Lenora G. Reid, Deputy Chief Administrative Officer, Finance & Administration *[Signature]* 1/26/17

THROUGH: Jay A. Brown, Director, Budget and Strategic Planning *[Signature]*

THROUGH: Peter L. Downey, Deputy Chief Administrative Officer, Economic Development & Planning *[Signature]*

FROM: Douglas C. Dunlap, Interim Director, Economic & Community Development *[Signature]*

RE: To declare a public necessity for and to authorize the acquisition of a 4.956 acre portion of the parcel of real property owned by City Central, LLC and known as 1401 Commerce Road (Tax Parcel No. S0070836002) for the purpose of housing the City's Police Property & Evidence Center.

ORD. OR RES. No: \_\_\_\_\_

PURPOSE: To declare a public necessity for and to authorize the acquisition of a 4.956 acre portion of the parcel of real property owned by City Central, LLC and known as 1401 Commerce Road (Tax Parcel No. S0070836002) for the purpose of housing the City's Police Property & Evidence Center pursuant to the terms of the Real Estate Purchase Agreement (the "Purchase Agreement" attached hereto.

REASON: Currently Property & Evidence is housed in the basement of the old Public Safety building at 501 N. 9<sup>th</sup> Street that was built in 1962. Because of the age of the building and lack of preventative maintenance over the years this facility has numerous deficiencies rendering it

inadequate to meet the needs of the Police Department as set forth in City Auditor report #2011-01. A new facility is needed to meet such needs.

**RECOMMENDATION:** Approval is recommended by the City Administration

**BACKGROUND:**

The City's current Police Property & Evidence Center functions are located in the basement of the Public Safety Building at 501 N. 9<sup>th</sup> Street in deteriorating conditions. The Police Evidence functions currently occupy approximately 21,000 sq. ft. at the Public Safety Building. Police Evidence functions include the following operations: administrative offices and storage of all found property and evidence collected by members of the department. These items include guns, monies and drugs. The site to be acquired will also accommodate employee and customer parking on the east parking lot and a secured parking lot for police department tactical equipment on the paved area on the west side of the site.

The site adjoins the 1250 Ingram Avenue property that the City acquired in 2014 to house Richmond Public Schools Facility Services functions. After market research and evaluating other properties, the City has determined that the building located at 1401 Commerce Road is the most suitable location for the Police Evidence functions.

Under the terms of the Purchase Agreement, the City would purchase 4.956 acres of the existing 23.85 acre parcel provided Seller first improves the property to certain standards. Included on the 4.956 acres is a 75,000 sq. ft. building with 50,000 sq. ft. of space to be improved by the seller to accommodate office, storage functions, on-site parking, outdoor storage to meet the Police Evidence program requirements; and site access from Commerce Road and Ingram Avenue. The purchase price is \$2,632,048. The assessed value of the existing 23.85 acre parcel including minimal site improvements and unimproved warehouse buildings is \$3,287,000. Upon the seller's completion of extensive building and site improvements to the acre parcel, it is expected that the assessed value of that parcel will increase to reflect the value of a fully improved property.

**FISCAL IMPACT/COST:**

The purchase price for the property is \$2,632,048. City Council appropriated \$700,000 in the FY17 capital budget for the acquisition of a police property and evidence center and the adopted CIP includes an additional \$2.2 million dollars for such purpose in FY18. Pursuant to the Purchase Agreement, Closing will not occur until FY18, allowing for Council to appropriate the remaining necessary funds in the FY18 budget (consistent with the CIP). Therefore, a FY17 budget amendment is not required. In addition, the City's obligation to purchase is subject to appropriation of sufficient funds.

In addition to the purchase price, it is estimated that an additional \$50,000 will be needed to complete the appropriate environmental reports and closing documents including appraisal, site survey and title commitment. Additional one-time costs of approximately \$23,350 for moving expenses; telecom and technology reconfigurations; and furniture, fixtures, and equipment expenses are estimated at \$194,602.

**FISCAL IMPLICATIONS:**

Current market conditions offer opportunistic buys for existing buildings at a cost well below the cost of new construction. It is therefore recommended that the City proceed with acquiring the proposed property as opposed to leasing it.

**BUDGET AMENDMENT NECESSARY:** No

**REVENUE TO CITY:** None

**DESIRED EFFECTIVE DATE:** Upon Adoption

**REQUESTED INTRODUCTION DATE:** February 13, 2017

**CITY COUNCIL PUBLIC HEARING DATE:** February 27, 2017

**REQUESTED AGENDA:** Consent Agenda

**RECOMMENDED COUNCIL COMMITTEE:**

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** Planning Commission

**AFFECTED AGENCIES:** Mayor, Chief Administrative Officer, Police Department, Office of the City Attorney, Department of Finance, Department of Budget and Strategic Planning, Department of Economic and Community Development, Office of the City Assessor, Department of Public Works, Department of Public Utilities, Department of Planning and Development Review

**RELATIONSHIP TO EXISTING ORD. OR RES.:**

**REQUIRED CHANGES TO WORK PROGRAM(S):** None

**ATTACHMENTS:** Real Estate Purchase Agreement

**STAFF:** William Friday  
Jane C. Ferrara

Doug Dunlap  
Paul A. McClellan  
Don Summers

## REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (hereinafter "Agreement") dated \_\_\_\_\_, 2017 is made and entered by and between CITY CENTRAL, LLC, a Virginia limited liability company (hereinafter "Seller"), with offices located at 7113 Three Chopt Road, Suite 210, Richmond, VA 23226, and THE CITY OF RICHMOND, VIRGINIA, a municipal corporation and political subdivision of the Commonwealth of Virginia (hereinafter "Purchaser"), with offices located at 900 E. Broad Street, Richmond, Virginia 23225.

WHEREAS, Seller currently owns certain real property and the improvements thereon, being approximately 23.855 acres, more or less, located at 1401 Commerce Road, Richmond, Virginia 23224 (City Tax Parcel No. S0070836002).

WHEREAS, Purchaser desires to purchase from Seller a portion of such real property and improvements thereon, being approximately 4.956 acres, more or less, as shown on Exhibit "A" attached hereto (the "Conveyance Property"), contingent upon Seller having made certain changes to the Conveyance Property and the improvements thereon and granting certain non-exclusive easements upon the Seller's adjacent properties for ingress and egress, which render the Conveyance Property and improvements thereon acceptable to the Purchaser in its reasonable discretion.

WHEREAS, the Seller desires to provide the easements and cause the Conveyance Property and improvements thereon to be acceptable to the Purchaser in its reasonable discretion to induce the Purchaser to purchase the Conveyance Property and improvements thereon.

THEREFORE, the parties hereto agree as follows:

### I. RECITALS

The Recitals above are incorporated herein by reference.

### II. PROPERTY DEFINED

The Conveyance Property and improvements thereon, and related non-exclusive easement rights to be recorded against Seller's adjacent properties for ingress and egress (hereinafter collectively referred to as the "Property"), to be sold by the Seller and purchased by the Purchaser shall be the real property shown on Exhibit "A" attached hereto. On or prior to Closing, as hereinafter defined, the Property shall be improved by the Seller as per the "Guidelines for Interior Tenant Improvements" set forth on Exhibit "B" attached hereto and substantially in accordance with the drawings attached hereto as Exhibit "B", so as to render the Property in a condition acceptable to the Purchaser in its reasonable discretion, which shall be in no less condition than described on Exhibit "B" including, but not limited to, all parking, landscaping, lighting and building improvements pursuant to the contingencies set out herein and together with the non-exclusive easement rights for ingress and egress over approximately the areas shown and labeled as "30' INGRESS/ EGRESS EASEMENT" and "30' WIDE INGRESS/ EGRESS ESMT. INT#14-1029" on Exhibit "A" attached hereto (collectively, the "Required Conditions"). The final dimensions,

boundaries and legal description of the Property shall set forth on the subdivision plat to be prepared and recorded by Seller in conformance with Section VIII (c) of this Agreement.

### III. PURCHASE PRICE

The "Purchase Price" for the Property shall be Two Million Eight Hundred Fifty Thousand and no/Dollars (\$2,632,048.00).

### IV. DEPOSIT

Within five (5) business days after the Purchaser's execution of this Agreement, Purchaser shall deposit Fifty Thousand Dollars (\$50,000.00) (the "Deposit") with Williams Mullen, 200 S. 10<sup>th</sup> Street, Suite 1600, Richmond, Virginia 23219, Attn: T. Preston Lloyd, Jr., Esq. Upon delivery by the Purchaser, the Deposit shall be non-refundable to the Purchaser except as otherwise provided in this Agreement but the Deposit shall be applied towards the Purchase Price at Closing (as hereinafter defined).

### V. CLOSING

(a) "Closing" of the purchase and sale of the Property shall be contingent upon Seller's compliance with and satisfaction of the contingencies set out in this Agreement, including but not limited to Section VIII herein. Provided Seller has obtained a final Certificate of Occupancy from the City of Richmond for the building and site improvements to be made to the Property as described in the Required Conditions (the "Final CO") and all other contingencies set forth in the Agreement have been satisfied, then, subject to Purchaser's appropriation of funds necessary to pay the Purchase Price, Closing shall occur on July 10, 2017. In the event Seller has not obtained the Final CO as of July 10, 2017, then, subject to Purchaser's appropriation of funds necessary to pay the Purchase Price and provided all other contingencies set forth in the Agreement have been satisfied, Closing shall occur no more than ten (10) business days after Seller obtains the Final CO or upon such date as Purchaser and Seller mutually agree in writing. At Closing, Seller shall execute and deliver a Special Warranty Deed ("Deed") subject to easements, restrictive covenants and conditions of record existing at the time of delivery of the Deed in proper form for recording among the land of records in Richmond, Virginia. Purchaser shall simultaneously deposit the Purchase Price and Purchaser's closing costs less the Deposit with the settlement agent who shall hold the Deed and funds pending closing and disbursement in accordance with customary practices.

(b) Title to the Property shall be good and marketable and shall be insurable at regular rates by any title insurance company licensed to issue such insurance in the Commonwealth of Virginia, without exceptions for any liens, encumbrances or easements.

(c) Seller shall provide a standard title insurance company form of owner's affidavit to induce the deletion from the title commitment of any exception for parties in possession and for mechanics' or materialmen's liens caused by or arising from work authorized by Seller.

(d) Seller shall provide any other documents customarily required by title insurance companies or as reasonably requested by Purchaser or Purchaser's title insurance company.



(c) Seller shall pay all customary costs of the preparation of the Deed and Virginia's Grantor's tax. Purchaser shall pay recording taxes and title insurance expense. Real estate taxes shall be prorated between Seller and Purchaser as of the date of the Closing.

## VI. FEASIBILITY CONTINGENCY; CITY APPROVALS.

(a) Commencing on the date on which this Agreement is fully executed by both the Purchaser and the Seller (the "Effective Date"), the Purchaser shall have a period of sixty (60) days ("Feasibility Period") to conduct any and all studies, surveys, tests, evaluations and investigations, including without limitation title, survey, environmental, soil, drainage, utilities and traffic studies and such other similar work as the Purchaser may consider appropriate, and to make such inquiries of governmental agencies and utility companies, as it may desire of the Property, the title thereto and the Purchaser's intended use thereof (collectively, "Feasibility Studies"). If the Feasibility Period terminates on a Saturday, Sunday or holiday recognized by the Commonwealth of Virginia, the Feasibility Period shall be deemed to terminate on the next business day thereafter. The Feasibility Period may be extended by the Purchaser one time for an additional thirty (30) day period on or before the final day of the Feasibility Period. As a condition precedent to Purchaser's access of the Property during the Feasibility Period or at any time prior to Closing, Purchaser shall have the Property listed on its commercial general liability policy, have Seller listed as additional insured under such policy and provide Seller with an insurance certificate evidencing the foregoing. Purchaser's commercial general liability policy shall be in the amount of at least One Million and no/100 Dollars (\$1,000,000.00) per occurrence, with a general aggregate limit per location of at least Two Million and no/100 Dollars (\$2,000,000.00) and shall be issued by a reputable insurance company that is authorized to issue insurance in the Commonwealth of Virginia.

(b) Seller has caused to be performed a Phase I environmental site assessment on the Property, a copy of which has been delivered to Purchaser and receipt of which Purchaser hereby acknowledges (the "Phase I ESA"). Seller shall reasonably cooperate with Purchaser in causing a reliance letter concerning the Phase I ESA (the "Reliance Letter") to be issued in favor of Purchaser effective as of the date of Closing.

(c) Within five (5) business days after the Effective Date, Seller shall deliver to Purchaser or its representative, copies of any and all files, documents and other materials in its possession or control relating to the Property ("Property Documents").

(d) In the event that any of Feasibility Studies show materially adverse conditions or defects in title that prevent (i) a transfer of insurable title to the Property or (ii) the Property from being developed or otherwise used as intended by the Purchaser, Purchaser shall give written notice of objection to Seller within fifteen (15) days after the expiration of the Feasibility Period, and Seller shall have thirty (30) days following receipt of such notice to either (i) have any non-monetary obligations satisfied and removed as determined by the Purchaser in its sole discretion or (ii) to give Purchaser written notice of Seller's inability or refusal to satisfy the non-monetary obligations. If any non-monetary obligation is not properly satisfied within such period, Purchaser may elect to either (a) terminate this Agreement in writing, or (b) to accept and approve all such unsatisfied non-monetary obligations and to complete the purchase of the Property.

Notwithstanding anything contained in this Agreement to the contrary, Seller shall be obligated, at its sole cost and expense, to satisfy at or prior to the Closing all monetary encumbrances effecting the Property as evidenced by deeds of trust, tax liens, judgments, mechanics' liens, or other liens or charges in a fixed sum, and Seller authorizes the use of the Purchase Price or a portion thereof to pay and discharge the same at Closing. In the event that this Agreement is terminated by Purchaser during the Feasibility Period for any reason whatsoever, then in any case the Deposit will be promptly delivered and payable to the Purchaser.

#### VII. MANNER OF PAYMENT

Full payment of the Purchase Price will be made at Closing in cash or wire transfer of immediately available United States funds.

#### VIII. PURCHASER'S ADDITIONAL CONTINGENCIES

This Agreement and Closing shall be contingent upon the following:

(a) The Property shall have been improved by the Seller to meet the Required Conditions. Not later than ninety (90) days following the Effective Date, Seller shall provide Purchaser with detailed plans and specifications detailing how the Seller intends improve the Property to meet the Required Conditions (the "Plans and Specifications"). Upon Seller's delivery of the Plans and Specifications, Purchaser shall have fifteen (15) days in which to deliver written notice to the Seller either approving the Plans and Specifications or providing reasonable, specific comments to the same. Purchaser's failure to timely respond shall constitute approval of Seller's proposed Plans and Specifications. Following Purchaser's timely comments to Seller's proposed Plans and Specifications, Seller and Purchaser shall negotiate in good faith to mutually agree on final Plans and Specifications detailing how the Seller intends improve the Property to meet the Required Conditions. Should the parties fail to reach agreement in writing on or prior to sixty (60) days following Seller's first delivery of the proposed Plans and Specifications, either party may terminate this Agreement upon notice to the other party, in which event the Deposit shall be promptly delivered and payable to Purchaser. Once mutually agreed to by the parties, the Plans and Specifications detailing how the Seller intends improve the Property to meet the Required Conditions may only be amended upon: (i) the written agreement of both Seller and Purchaser, or (ii) as required in order for Seller to obtain a building permit or other necessary permit from applicable governmental authority.

(b) Prior to or simultaneously with the Closing, non-exclusive easement(s) granting the Purchaser ingress and egress over approximately the areas shown and labeled as "30' INGRESS/ EGRESS EASEMENT" and "30' WIDE INGRESS/ EGRESS ESMT. INT#14-1029" on Exhibit "A" attached hereto shall be recorded against the adjoining properties owned by Seller in favor of the Purchaser and Purchaser's successors in title and said easements shall run with the land. The written easement agreement shall be in a commercially reasonable form, shall meet the requirements set forth in Section 30-610.1 of the Code for the City of Richmond and shall be otherwise mutually agreeable to Seller and Purchaser; provided, however, the written easement agreement shall contain the following terms: (i) Seller may relocate the easements at Seller's expense, (ii) the costs of maintaining, repairing and replacing the easement areas shall be shared proportionately (based on acreage) by all parties having the right to use such easement area and with respect to the Purchaser only to the extent that funds are appropriated by the City Council of

the City of Richmond, Virginia on a no-less-frequent basis than once per Purchaser's fiscal year. Seller and Purchaser hereby agree to prepare and approve the written easement agreement in a prompt manner and no later than would otherwise delay the Property from meeting the Required Conditions.

(c) The Property shall be lawfully subdivided by the Seller and shall meet all zoning requirements for Purchaser's intended use as shall be evidenced by a zoning determination letter issued by the Zoning Administrator for the City of Richmond which shall be obtained by the Seller (the "ZCL"). Notwithstanding any provision of this Agreement to the contrary, Seller shall have no obligation to commence construction of the improvements pursuant to the Plans and Specifications prior to final, unappealable issuance of the ZCL.

(d) Seller shall not encumber the Property with any mortgages, liens, easements, leases, licenses or restrictive covenants unless approved by the Purchaser in its sole discretion.

(e) At Seller's expense, Seller shall diligently pursue all permits and approvals necessary so that the Property meets the Required Conditions. To the extent permitted by law, Purchaser shall use its best efforts to facilitate and, where possible, expedite Seller's obtaining any and all subdivision and/or zoning approvals as may be required to authorize the Required Conditions.

(f) Seller shall obtain construction bids for the final plans and specifications to cause the Property to meet the Required Conditions and shall provide the construction bids to the Purchaser for review. In the event the Seller, using the construction bids, cannot cause the Property to meet the Required Conditions, Purchaser, within fifteen (15) days after the later of Purchaser's receipt of the bids or Purchaser's receipt of Seller's notice that Seller, using the bids, cannot cause the Property to meet the Required Conditions, shall do one of the following: (i) approve changes to the plans and specifications that enable the Seller to cause the Property to meet the Required Conditions, (ii) agree to an increase the Purchase Price that enables the Seller to cause the Property to meet the Required Conditions, with such increase in the Purchase Price subject to the appropriation of funds and any other necessary approvals by the City Council of the City of Richmond, Virginia, (iii) terminate this Agreement upon which the Deposit will be promptly delivered and payable to the Seller, or (iv) come to a mutually agreeable alternative arrangement with the Seller which shall be agreed to in writing.

(g) Purchaser shall determine if these contingencies have been met in its reasonable discretion. Upon Purchaser's request but subject to the insurance requirements described in Article VI (a) above, Seller shall provide Purchaser total and complete access to the Property to evaluate, investigate and test if these contingencies have been met. Time is of the essence with respect to both parties.

(h) If the contingencies set forth herein are not met and the Final CO is not issued within eighteen (18) months following the Effective Date of this Agreement then either Purchaser or Seller may terminate this Agreement upon 30 days' written notice to the other party, in which event the Deposit shall be promptly delivered to Purchaser upon such termination. Provided Purchaser has appropriated the funds necessary to pay the Purchase Price, if the contingencies are

met and the Final CO is issued within thirty (30) days of Purchaser's written notice then this Agreement shall not terminate and the parties shall proceed to Closing.

#### IX. REPRESENTATIONS AND WARRANTIES.

As an inducement to Purchaser to consummate the transaction contemplated by this Agreement, Seller represents and warrants to Purchaser as follows (which representations and warranties shall also be true as of the Closing):

(a) Seller has the right, power and authority to enter into this Agreement and cause the Property to be sold in accordance with the terms and conditions hereof. All requisite limited liability company actions necessary to authorize Seller to enter into this Agreement and to perform its obligations hereunder have been taken.

(b) As of the Closing date, there will be no adverse or other parties in possession of the Property or any part thereof.

(c) Seller is unaware of any fact or condition which would result in the termination of the current access from the Property to any presently existing highways and roads adjoining or situated on the Property or to any existing sewer or other utility facilities serving, adjoining or situated on the Property.

(d) Seller, to the best of its knowledge, is not a party to any litigation and is unaware of any pending or threatened litigation which arises from or affects the Property.

(e) To the best of Seller's knowledge, there are no service or maintenance contracts that will affect the Property subsequent to Closing.

(f) Except as otherwise noted herein, Seller, to the best of its knowledge, is not aware of, nor has been notified of any environmental violation(s) of federal, local or state environmental laws/regulations for the Property.

(g) To the best of Seller's knowledge and except as would be disclosed on an updated title report or zoning determination letter for the Property, no commitments have been, or will be made, by Seller, to any governmental unit or agency, utility company, authority, school board, church or other religious body, or to any other organization, group or individual relating to the Property except any commitments made or approved by Purchaser, which would impose any obligations upon Purchaser to make any contributions of money or land or to install or maintain any improvements (except the Property and the improvements thereon) with respect to the development of the Property in accordance with the terms herewith.

(h) To the best of Seller's knowledge, Seller has not, executed or caused to be executed any document with or for the benefit of any governmental authority restricting the development, use or occupancy of the Property that has not specifically been disclosed to Purchaser or would not be revealed by updated title report for the Property or zoning determination letter for the Property.

As an inducement to Seller to consummate the transaction contemplated by this Agreement, Purchaser represents and warrants to Seller as follows (which representations and warranties shall also be true as of the Closing):

(i) Purchaser has the right, power and authority to enter into this Agreement and cause the Property to be purchased in accordance with the terms and conditions hereof. All requisite municipal actions and approvals necessary to authorize Purchaser to enter into this Agreement have been taken and secured from the City Council for the City of Richmond, Virginia. The individual executing this Agreement on behalf of the Purchaser has the authority and has been duly authorized by all necessary municipal actions to so execute this Agreement.

(j) Purchaser hereby confirms the representations and warranties contained in Article XXIII below.

#### X. OBLIGATIONS OF SELLER.

Seller agrees with Purchaser that from the Effective Date until Closing or earlier termination of this Agreement, Seller shall:

(a) advise Purchaser promptly of any litigation, arbitration, or administrative hearing before any governmental agency concerning or affecting the Property which is instituted or threatened after the Effective Date;

(b) not take, or omit to take, any action that would have the effect of violating any of the representations, warranties, covenants, or agreements of Seller contained in this Agreement; and

(c) not take any action or permit any action to be taken which would change the physical characteristics of the Property without Purchaser's prior written consent, except for the Seller's actions to cause the Property to meet the Required Conditions as described herein.

#### XI. COMPLIANCE

Seller and Purchaser shall comply with all laws, rules and regulations of the Commonwealth of Virginia, City of Richmond, United States of America and/or any of their respective agencies. Purchaser agrees to assist the Seller by requesting that all City permit reviews and City permit inspections relating to the Property be expedited where reasonably practical.

#### XII. DEFAULT BY PURCHASER

If Purchaser shall default in the performance of its obligations under this Agreement, Seller shall deliver written notice to Purchaser detailing the specific alleged default and Purchaser shall have ten (10) days to cure such default (or such longer period of time if reasonably necessary given the nature of the default and/or cure). In the event Purchaser fails to cure any default within such cure period, then Seller may terminate this agreement by written notice as herein provided, in which case the Deposit shall be refunded to the Seller and this Agreement shall become void, with neither party having any further liability. Notwithstanding the foregoing, if Seller complies with the Required Conditions, procures the Final CO showing it improved the Property pursuant to the Required Conditions, and is not otherwise in default of the Agreement, and Purchaser defaults by

not paying the Purchase Price at scheduled Closing for any reason other than the non-appropriation of funds then the Seller may seek specific performance and the Deposit shall be retained by Seller. In no event shall the Seller have any recourse against, or satisfaction be sought from, the private property of any partner, principal, officer, commissioner, council member, director, employee or agent of Purchaser.

#### XIII. DEFAULT BY SELLER

If Seller shall default in the performance of its obligations under this Agreement, Purchaser shall deliver written notice to Seller detailing the specific alleged default and Seller shall have ten (10) days to cure such default (or such longer period of time otherwise set forth in this Agreement). In the event Seller fails to cure any default within such cure period, then Purchaser may terminate this Agreement, whereupon the Deposit shall be refunded to Purchaser, and Purchaser shall have all rights available by law and equity to include but not be limited to specific performance.

#### XIV. LITIGATION, ARBITRATION, COSTS

In the event this Agreement is the subject of any litigation or arbitration, each party shall bear its own costs.

#### XV. ASSIGNMENT

This Agreement may be assigned by Purchaser to any individual, entity or successor corporation of Purchaser without the written consent of Seller provided that the Purchase remains liable for all obligations hereunder following such assignment.

#### XVI. ENTIRE AGREEMENT

This Agreement shall be deemed to contain the final and entire Agreement between the parties. Any purported modification, alteration or addendum to this Agreement shall be deemed valid only when reduced to writing and executed by the parties hereto.

#### XVII. BINDING AGREEMENT; TIME IS OF THE ESSENCE

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Time is of the essence with this respect to the terms of this Agreement.

#### XVIII. APPLICABLE LAW

This Agreement shall be construed in accordance with the laws of or applicable to the Commonwealth of Virginia.

#### XIX. DAMAGE OR DESTRUCTION PRIOR TO CLOSING.

Seller shall bear the risk of all loss or damage to the Property from all causes through the time of Closing. Seller represents that it has, and shall maintain through the date of Closing, a policy of fire and extended coverage insurance in at least the full cash value of the improvements located on the Property. If at any time prior to Closing any portion of the Property is destroyed or damaged as a result of fire or any other casualty whatsoever, Seller shall give notice thereof to Purchaser, and Purchaser shall have the option of either: (i) terminating this Agreement, in which event the Deposit shall be promptly delivered and payable to Purchaser and thereafter this Agreement shall become null and void and without further force; or (ii) proceeding to Closing, in which event all

paid and unpaid claims, insurance proceeds and other rights in connection with any such losses to or on the Property shall be paid, assigned and/or conveyed to Purchaser. The provisions of this Section shall in no way limit Seller's other liabilities as set forth elsewhere in this Agreement.

**XX. AUTHORIZATION**

The Chief Administrative Officer of the City of Richmond, Virginia or her designee shall be authorized to act on behalf of the Purchaser under this Agreement. Russell Harper, Manager, shall be authorized to act on behalf of the Seller under this Agreement.

**XXI. COUNTERPARTS; NOTICES**

This Agreement may be executed in one or more counterparts and constitute but one and the same instrument. All notices required hereunder shall be in writing and delivered by hand, by national overnight courier, or sent by certified mail, postage prepaid and return receipt requested to the following addresses:

Seller:	City Central, LLC 7113 Three Chopt Road, Suite 210 Richmond, Virginia 23226 Attn: Russell Harper
With a copy to:	Williams Mullen 200 S. 10 <sup>th</sup> Street, Suite 1600 Richmond, VA 23219 Attn: T. Preston Lloyd, Jr.
Purchaser:	City of Richmond 1500 East Main Street Richmond, VA 23219 Department of Economic & Community Development Attn: Paul A. McClellan
With a copy to:	City Attorney City Hall, Room 400 900 East Broad Street Richmond, Virginia 23219 Attn: Matthew A. Welch, Esq.

Or to such other address as the intended recipient may have specified in a written notice to the other party. Notice shall be deemed effective when delivered by hand or overnight courier or when received if sent by certified mail.

**XII. NO THIRD PARTY; NO JOINT VENTURE**

This Agreement shall not create any right for, or cause any right to vest in, any party not a party hereto. Nothing in this Agreement shall be construed as making either party hereto a partner or joint venture with the other or any other party not a party hereto.

**XXIII. SUBJECT TO APPROPRIATION**

The Purchaser shall be liable under this Agreement, financially and otherwise, only to the extent that funds are appropriated by the City Council of the City of Richmond, Virginia on a no-less-frequent basis than once per Purchaser's fiscal year.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, the parties hereto have, by their duly authorized representatives, executed this Agreement as an instrument under seal as follows:

**PURCHASER: CITY OF RICHMOND**

BY: \_\_\_\_\_

ITS: Chief Administrative Officer

Date:

As authorized by Ord. No. \_\_\_\_\_

Approved as to form:

  
\_\_\_\_\_

Assistant City Attorney

Approved as to terms:

\_\_\_\_\_

Economic and Community Development - Real Estate Strategies

**SELLER: CITY CENTRAL, LLC**

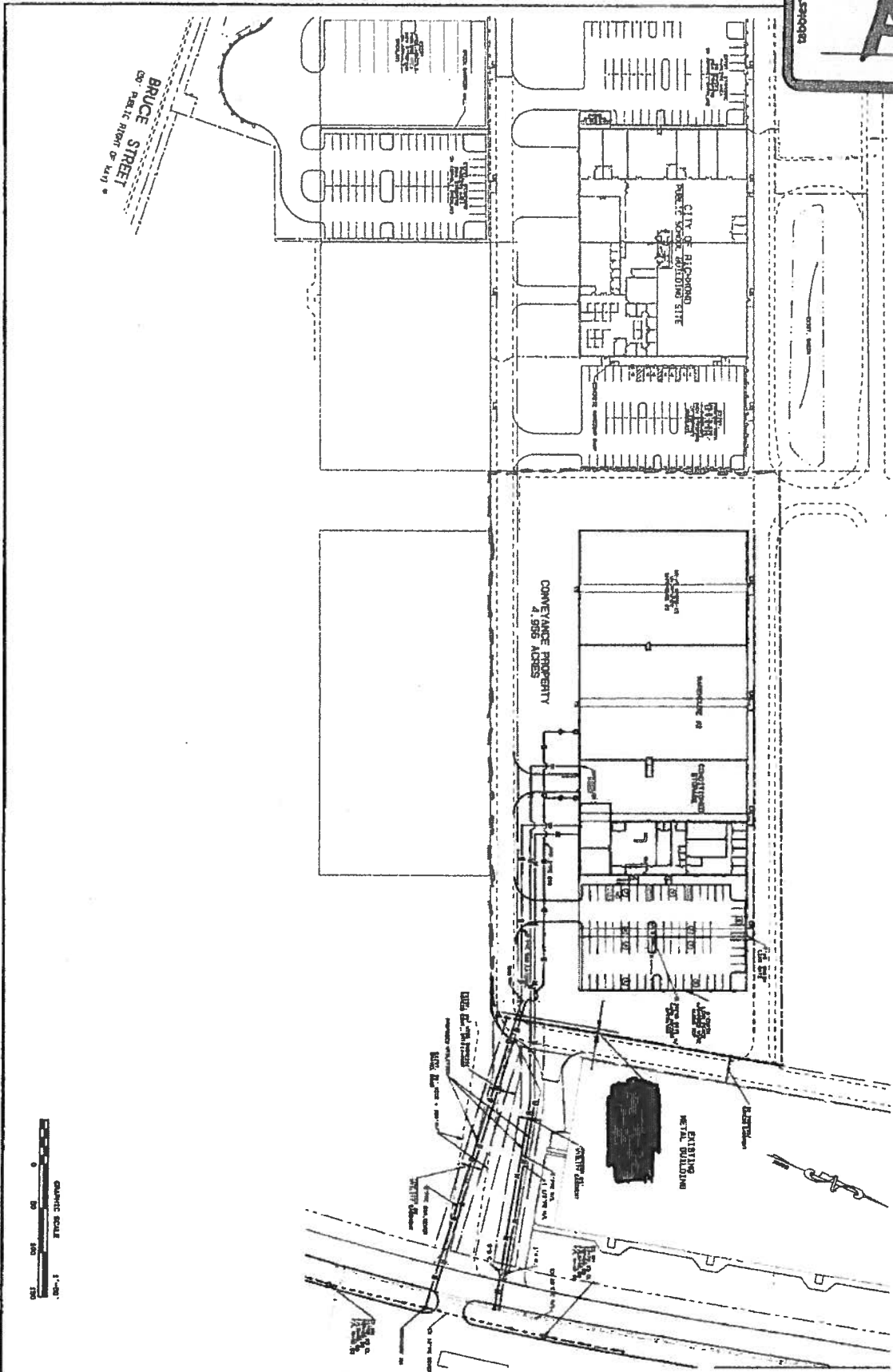
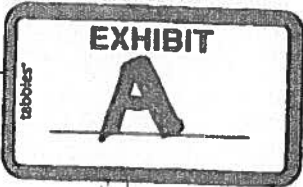
BY: \_\_\_\_\_

ITS: \_\_\_\_\_

Date:

**EXHIBIT "A"**

[Attached Hereto]



**RICHMOND POLICE P&E DIVISION**  
 OLD SOUTH DISTRICT / CITY OF RICHMOND, VIRGINIA  
**CONCEPTUAL LAYOUT UNITS 23-26**  
 DESIGNER: RPA    DRAWN BY: CIL    CHECKED BY: RPA  
 SCALE: AS SHOWN    DATE: APRIL 13, 2011    PROJECT NO: 109-4

REVISION		
NO.	DATE	DESCRIPTION
1	04/12/11	REV. CL. LAYOUT CONCEPTS
2	07/12/11	REV. CL. LAYOUT CONCEPTS
3	07/18/11	REV. CL. LAYOUT CONCEPTS
4	08/14/11	REV. CL. LAYOUT CONCEPTS
5	08/25/11	REV. CL. LAYOUT CONCEPTS
6	09/04/11	REV. CL. LAYOUT CONCEPTS
7	01/12/12	REV. CL. LAYOUT CONCEPTS

NO. 1001 135  
 WOODCOCK COUNCIL 30000  
 PHONE: 804-680-3222  
 FAX: 804-680-3223

**EDA**  
 ENGINEERING DESIGN ASSOCIATES  
 5000 LAURELWOOD AVENUE  
 RICHMOND, VIRGINIA 23233  
 PHONE: 804-680-3222  
 FAX: 804-680-3223

## EXHIBIT "B"

### GUIDELINES FOR IMPROVEMENTS

#### GENERAL FOR SITE & BUILDING:

- Site and Building shall meet all Federal, State and local Building Code, permitting, inspection and ADA requirements.
- All hazardous materials removed including an occupancy clearance letter confirming no hazardous materials on site or in the building
- Install site utilities (water sewer, gas and electric) shall be installed with the exception of installing gas to the meter at the building and stubbing water, sewer, and fire protection within 5 feet inside the property line. .
- One new 800 AMP 3-Phase 120/108 volt electrical service to be provided serving both the Office and Warehouse area
- Overlay existing 25,000 sf building slab with 2" (two inches) of asphalt and stripe the surface per code
- Provide wall mounted exterior lighting above overhead and personnel doors
- Parking lot lighting per code
- Fencing per Construction Documents 8' chain-link fencing on the east parking lot with one strand of barb wire at top. One (1) sixteen foot (16) cantilever gate with controlled access (Purchaser to provide controls as part of its security, Seller to provide electrical and conduit for security wiring)
- Landscaping per code
- Two (2) new drive lanes, light duty pavement section shall be for the new drive lane to the parking lot and for the new drive lane to the south elevation of building (typical section for light duty pavement is compacted subgrade, with 6" (six inches) of 21-B stone and 2" (two inches) of SM-28 Asphalt.
- Offsite Primary Access Road (approximately 280' long and 30' wide) to Commerce Road will be paved to a mutually agreeable specification.
- Two (2) eastern entrances to the building shall have an entrance canopy feature similar to RPS Facility maintenance. The southeast entrance will have an ADA ramp and the door shall be storefront type. The northeast entrance door shall be hollow metal with window panel.
- One (1) single coil up overhead door along the south elevation shall be 9' wide by 10' tall.

#### OFFICE

##### ADA Accessibility

- All facilities shall comply with applicable ADA codes and regulations for access and ability to work in a barrier free space.

## EXHIBIT "B"

- Accessible facilities to include parking, building entrance, toilets office areas.

### Environmental

- The building is to be free of friable asbestos, or friable asbestos must be properly abated prior to occupancy. ACM's must be managed under an appropriate management plan. Certification and report will be required.
- Space to be mold free. Certification may be required.

### Ceiling

- Lay-in acoustical 2' x 4' or 2' x 2' tiles with suspended grid, with minimum NRC of 0.65 at 10 feet height.
- Batt insulation or equivalent above all ACT ceilings per current VUSBC requirement.

### Lighting

- Modern parabolic, diffused, 2' x 4' and/or 2' x 2' fluorescent fixtures with energy efficient lamps (T-8 or better) and electronic ballasts shall be provided. Fixtures shall be capable of producing and maintaining a uniform lighting level of approximately 50-foot candles at working surface height throughout the office or per current code requirement.
- Restroom lighting shall be approximately 30 foot candles measured at counter height and approximately 20 foot candles measured at the floor in enclosed corridors or per current code requirement.
- Dimmable incandescent recessed down lights shall be provided for conference room
- Emergency egress lighting as required by applicable life safety codes per current code requirement and as may be reasonably required by the building official shall be provided throughout the entire space.

### Walls

- Gypsum wall board, minimum thickness of 1/2" thick with studs at 24" center.
- Acoustical treatment in walls for all conference room.
- Gypsum Walls to be finished with primer and two finish coats of paint,
- Existing brick wall to remain exposed as-is.
- Insulation for all exterior and interior stud walls (demising conditioned from nonconditioned space) shall be per current VUSBC requirements.
- Three (3) perimeter walls of the Entry Lobby area will be 8' height CMU
- Provide case openings in the wall between night Drop & Open Office areas for Purchaser to install its pass-thru lockers (Purchaser shall provide specification to Seller during Feasibility)

### Doors & Windows

- Interior doors shall be flush solid core.
- Exterior doors shall be metal hollow core doors

## EXHIBIT "B"

- Minimum 3'-0" wide x 6'-8" high.
- ADA compliant lever hardware.
- Locks and closers provided as required in compliance with ADA.
- Windows to be standard insulated storefront type window construction
- Two (2) Entry Lobby Service windows with standard bullet-proof glass with rotating cylinder access (Purchaser shall provide specification to Seller during Feasibility)

### Floor

- Finished floor to be reasonably level and clean, concrete overlay on existing asphalt, ready to receive carpet or Vinyl Composition tile

### Carpet

- Branded 100% nylon with minimum density of 6,000.
- Minimum face weight for broadloom products to be 26 oz. per sq. yd.

### Resilient Flooring

Acceptable:

- Vinyl Composition tile – 12" x 12", Armstrong, Tarkett, or equal.

### Vinyl Base

- Vinyl Base shall be installed in areas receiving carpet or VCT and shall be 1/8" thick x 4" high, cove profile in longest lengths possible, continuous roll preferred.

### Casework in Breakroom

- To meet A.W.I. Standard for mid-grade.
- High pressure plastic laminate on all exposed surfaces with one sink.
- To be designed and constructed to meet ADA codes.

### Electrical Power

- Approximately 5 to 7.5 watt per square foot or as required by code.
- 120 volt duplex receptacles distributed per code
- Data and phone conduits terminating above ceiling w/ back box and pull string provided by Seller, wires and outlets by Purchaser

### Sprinkler System

- Certified, compliant, fully operational sprinkler system to be provided to meet local building codes.

## **EXHIBIT "B"**

### **HVAC System**

- Temperature maintenance of approximately 68 degrees F with 20% relative humidity in winter and approximately 74 degrees F with maximum of 60% relative humidity in summer months.
- Fresh air exchange rates and CO2 levels shall comply with ASHRAE Ventilation Standard 62.
- Gas piping as required to the meter

### **Exhaust System**

- Required for all toilet facilities.

### **Drinking Fountains**

- A minimum of one (1) chilled water drinking ADA Compliant fountain at each toilet facility.

## **WAREHOUSE SPACE # 1**

### **ADA Accessibility**

- All facilities shall comply with applicable ADA codes and regulations for access and ability to work in a barrier free space.
- Accessible facilities to include parking, building entrance, toilets office areas.

### **Environmental**

- The building is to be free of asbestos, or asbestos must be properly abated prior to occupancy. ACM's must be managed under an appropriate management plan. Certification and report will be required.
- Space to be mold free. Certification may be required.

### **Ceiling**

- Existing with thermal barrier as required by energy code

### **Lighting**

- Industrial 4 foot or 8 foot strip lighting
- 20 foot candles in warehouse areas
- Emergency egress lighting as required by applicable life safety codes per current code requirement and as may be reasonably required by the building official shall be provided throughout the entire space.

### **Walls**

- Gypsum wall board, minimum thickness of 1/2" thick with studs at 24" center.
- Gypsum Walls to be finished with primer and two finish coats of paint,
-

## **EXHIBIT "B"**

- 80 linear foot CMU wall for South End wall for Storage Area # 1 & #2, perimeter walls for Storage Area #1 & Area #2 shall otherwise be gypsum reinforced with metal mesh storage
- Existing brick wall to remain exposed and as-is
- Insulation for all exterior and interior stud walls (demising conditioned from nonconditioned space) shall be per current VUSBC requirements.

### **Doors**

- Interior doors shall be flush solid core.
- Exterior doors shall be metal hollow core doors
- Minimum 3'-0" wide x 6'-8" high.
- Overhead doors will be 9' x 10' steel doors with electric motor
- ADA compliant lever hardware.
- Locks and closers provided as required in compliance with ADA. Keying by others

### **Floor**

- 4" Reinforced Concrete floor in warehouse areas to be 3,500 psi concrete w/ vapor barrier on min. 4" stone base.

### **Electrical Power**

- 5 to 7.5 watts per square foot or as required by code.
- 120 volt duplex receptacles per code for warehouse

### **Sprinkler System**

- Certified, compliant, fully operational sprinkler system to be provided to meet local building codes.

### **HVAC System**

- Provided in warehouse areas #1 only as designated in Construction Documents

### **Exhaust System**

- Required for all toilet facilities and in Storage Area #2.

### **Drinking Fountains**

- One (1) chilled water drinking ADA Compliant fountain at each toilet facility as required by code.

## **WAREHOUSE SPACE # 2**

### **ADA Accessibility**

- All facilities shall comply with applicable ADA codes and regulations for access and ability to work in a barrier free space.

## **EXHIBIT "B"**



- Accessible facilities to include parking, building entrance, toilets office areas.
- Seller shall deliver the floors in as-is, where-is condition with no modifications to surface

#### Environmental

- The building is to be free of asbestos, or asbestos must be properly abated prior to occupancy. ACM's must be managed under an appropriate management plan. Certification and report will be required.
- Space to be mold free. Certification may be required.

#### Ceiling

- Existing with thermal barrier as required by energy code

#### Lighting

- Industrial 4 foot or 8 foot strip lighting
- 10 foot candles in warehouse areas
- Emergency egress lighting as required by applicable life safety codes per current code requirement and as may be reasonably required by the building official shall be provided throughout the entire space.

#### Walls

- Existing brick wall to remain exposed and as-is
- Insulation for exterior walls shall be per current VUSBC requirements.

#### Doors

- Door & ramp between Warehouse #1 & Warehouse #2
- Exterior Doors for Warehouse # 2 per code for egress only

#### Sprinkler System

- Certified, compliant, fully operational sprinkler system to be provided to meet local building codes.

#### Heating & Ventilation System

- Provided in Warehouse # 2

### **WAREHOUSE SPACE # 3**

Warehouse # 3 shall be delivered in "as-is, where-is" condition with no work or permits required except work as described below.

- Seller shall provide allowance of \$7,500 dollars for lighting

#### **EXHIBIT "B"**

- Retain the existing dry sprinkler fire suppression system
- Certified, compliant, fully operational sprinkler system to meet local building codes.