AGENDA FOR MEETING OF THE
CITY OF SANDY SPRINGS DEVELOPMENT AUTHORITY

City of Sandy Springs City Manager Board Room
December 8, 2016
8:30 A.M.

1. **DA16-037 Roll Call**
2. **DA16-038 Approval of the Minutes from Meeting Held November 4, 2016**
3. **DA16-039 Consideration of Amendments to the Bylaws**
4. **DA16-040 Consideration and Memorandum of Agreement Regarding the City Springs Financing of Public Infrastructure** (*Presentation led by Jim Woodward, Bond Counsel)*
5. **DA16-041 Consideration of First Amendment to Lease Agreement City of Sandy Springs Development Authority and JLB Chastain** (*Presentation led by Jim Woodward, Bond Counsel)*
6. **DA16-042 Other Business**
7. **DA16-043 Adjourn**

BYLAWS OF THE
CITY OF SANDY SPRINGS DEVELOPMENT AUTHORITY

ARTICLE I. - THE AUTHORITY

Section 1. - Name of Authority. The name of the Authority shall be the "City of Sandy Springs Development Authority."

Section 2. - Seal of Authority. The seal of the Authority shall be in the form of a circle and shall bear the name of the Authority and the year of its organization.

Section 3. - Office of Authority. The office of the Authority shall be at such place in the City of Sandy Springs, Georgia, as the Authority may from time to time designate by resolution.

ARTICLE II. - OFFICERS

Section 1. - Officers. The officers of the Authority shall be a Chairperson, a Vice Chairperson, and a Secretary-Treasurer who shall be the Executive Director.

Section 2. - Chairperson. The Chairperson shall preside at all meetings of the Authority. Except as otherwise authorized by resolution of the Authority, the Chairperson shall sign all contracts, deeds and other instruments made by the Authority. At each meeting, the Chairperson shall submit such recommendations and information as he or she may consider proper concerning the business, affairs and policies of the Authority.

Section 3. - Vice Chairperson. The Vice Chairperson shall perform the duties of the Chairperson in the absence or incapacity of the Chairperson; and in the case of the resignation or death of the Chairperson, the Vice Chairperson shall perform such duties as are imposed on the Chairperson until such time as the Authority shall appoint a new Chairperson.

Section 4. - Secretary-Treasurer. The Secretary-Treasurer shall keep the records of the Authority, shall act as secretary of the meetings of the Authority and record all votes, and shall keep a record of the proceeds of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to his office. The Secretary-Treasurer shall keep in safe custody the seal of the Authority and shall have power to affix such seal to all contracts and instruments authorized to be executed by the Authority.

The Secretary-Treasurer shall have the care and custody of all funds of the Authority and shall deposit the same in the name of the Authority in such bank or banks as the Authority may select. The Secretary-Treasurer shall sign all orders and checks for the payment of money and shall pay out and disburse such moneys under direction from the Authority. Except as otherwise authorized by resolution of the Authority, all such orders and checks shall be countersigned by the Chairperson. The Secretary-Treasurer shall keep regular books of accounts showing receipts and expenditures and shall render to the Authority, at each regular meeting (or more often when requested), an account of all transactions and also of the financial condition of the Authority. The Secretary-Treasurer shall give such bond for the faithful performance of the Secretary-Treasurer's duties as the Authority may determine.

The Secretary-Treasurer shall be appointed by the Authority. Any person appointed to fill the office of the Secretary-Treasurer, or any vacancy therein, shall have such term as the Authority fixes.

Section 5. - Executive Director. The Secretary-Treasurer shall be the Executive Director of the Authority and shall have general supervision over the administration of the business and affairs of the Authority, subject to the direction of the Authority.

Section 6. - Additional Duties. The officers of the Authority shall perform such other duties and functions as may from time to time be required by the Authority or the bylaws or rules and regulations of the Authority.

Section 7. - Election or Appointment. The Chairperson and Vice Chairperson shall be elected at the annual meeting of the Authority from among the directors of the Authority, and shall hold office for one year or until their successors are elected and qualified.

Section 8. - Vacancies. Should the offices of Chairperson or Vice Chairperson become vacant, the Authority shall elect a successor from its membership at the next regular meeting, and such election shall be for the unexpired term of said office. When the office of Secretary-Treasurer becomes vacant, the Authority shall appoint a successor as provided in Section 4 of this Article.

Section 9. - Additional Personnel. The Authority may from time to time employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Development Authorities Law, as amended (O.C.G.A. § 36-62-1 et seq.), and all other laws of the State of Georgia applicable thereto. The selection and compensation of such personnel shall be determined by the Authority subject to the laws of the State of Georgia.

ARTICLE III. - MEETINGS

Section 1. - Annual Meeting. The annual meeting of the Authority shall be held on the ~~third~~ second Thursday in ~~October~~ January at ~~4:00~~8:30 o'clock ~~P~~A.M. at the regular meeting place of the Authority. In the event such date shall fall on a legal holiday, said meeting shall be held on the next succeeding secular day.

Section 2. - Regular Meetings. The Authority shall hold ~~R~~regular bi-monthly meetings at 8:30 AM on the second Thursday of each of the following months: March, May, July, September and November. Regular meetings may be held without notice at such other times and places as may from time to time be determined by resolution of the Authority. In the event a day of regular meeting shall be a legal holiday, said meeting shall be held on the next succeeding secular day.

Section 3. - Special Meetings. The Chairperson of the Authority may, when he or she deems it expedient, and shall, upon the written request of two members of the Authority, call a special meeting of the Authority for the purpose of transacting any business designated in the call. The call for a special meeting may be delivered to each member of the Authority at least two days prior to the date of such special meeting. At such special meeting no business shall be considered other than as designated in the call, but if all of the members of the Authority are present at a special meeting any and all business may be transacted at such special meeting.

Section 4. - Quorum. The powers of the Authority shall be vested in the Directors thereof in office from time to time. A majority of the Directors shall constitute a quorum for the purpose of conducting its business and exercising its powers and all other purposes, but no action may be taken by the Authority without the affirmative vote of a majority of the full membership of the Authority.

Section 5. - Order of Business. At the regular meetings of the Authority the following shall be the order of business:

(1) Roll call.

(2) Reading and approval of the minutes of the previous meeting.

(3) Bills, written communications and citizen input.

(4) Report of the Secretary-Treasurer.

(5) Reports of committees.

(6) Unfinished business.

(7) New business.

(8) Adjournment.

All resolutions shall be in writing and shall be copied in a journal of the proceedings of the Authority.

Section 6. - Manner of Voting. The voting on all questions coming before the Authority shall be by roll call, and the yeas and nays shall be entered upon the minutes of such meeting, except in the case of election when the vote may be by ballot.

ARTICLE IV. - AMENDMENTS

Section 1. - Amendments to Bylaws. The Bylaws of the Authority may be amended at a regular or a special meeting with the approval of at least two-thirds of the Directors of the Authority.

SANDY SPRINGS
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To: Development Authority of Sandy Springs

From: Andrea Hall, Economic Development Director AHA

Date: December 5, 2016 for Submission onto the December 8, 2016 City Council Meeting Agenda

Subject: Memorandum of Agreement regarding the City Springs financing of Public Infrastructure

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Background:

At the May 3, 2016 meeting, City Council closed an agreement with Carter & Associates, LLC and Selig Enterprises, Inc. ("Carter/Selig") to develop residential and retail components of the City Springs site. The estimated value of the private development component of the project is $68,250,000.

The private components of the Project is part of a larger $250 Million mixed-use development designed and built by the City of Sandy Springs. The public components include the Civic Office Building, Performing Arts Center, Park and on-site parking, various transportation enhancements on 4 perimeter roads to slow traffic down around the site, in addition to the creation of two new interior roads on site: Blue Stone Rd. and Eva Galambos Way.

On August 8, 2016, the City of Sandy Springs Development Authority approved taxable revenue bond financing for the Carter project (City Springs Owner LLC) of up to $70,000,000. This will result in a tax savings for the project of approximately $2,300,000 over the 10 years of the agreement. The project will still generate tax revenues of approximately $5,900,000 over the same time period.

This attached Memorandum of Agreement will be considered by City Council on December 6, 2016.

Discussion:

The City of Sandy Springs has a desire to partner with the private developers as much as possible to offset costs of public infrastructure. The attached Memorandum outlines a structure with the

SANDY SPRINGS

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Sandy Springs Development Authority and the City of Sandy Springs in that would result in a portion of the tax savings from the approved revenue bond financing for the project being returned to the City for the purposes of offsetting construction costs for the public infrastructure components of the City Springs project.

Agreements are needed to be approved among the City of Sandy Springs, the City of Sandy Springs Development Authority and City Springs Owner LLC to outline how the tax savings for this project will be allocated between City Springs Owner LLC and the City's public infrastructure at the City Springs site.

The agreement provides that City Springs Owner LLC shall make contract payments to the Authority in an amount equal to 100% of the Savings Amount in Year One, and 40% of the Savings Amount in Year Two. City Springs Owner LLC would receive 100% of the Savings Amount in Years Three through Ten.

Based on current discount rates, this agreement will result in an allocation of approximately $630,000 for the public infrastructure portion of the City Springs project.

Recommendation:

Staff recommends approval of the attached memoranda.

Attachments:

Memoranda of Agreement

DRAFT DATE: 12/02/16

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (this "Agreement") is dated December ___, 2016, and is entered into by and between the CITY OF SANDY SPRINGS DEVELOPMENT AUTHORITY, a public body corporate and politic of the State of Georgia (the "Authority"), the CITY OF SANDY SPRINGS, GEORGIA, a municipal corporation created and existing under the laws of the State of Georgia (the "City"), and CITY SPRINGS OWNER, LLC, a Delaware limited liability company (the "Company"), in order to evidence the agreements of the respective parties hereto.

WHEREAS, the Authority is an instrumentality of the State of Georgia and a public body corporate and politic and a development authority duly created by the Development Authorities Law of the State of Georgia, O.C.G.A. § 36-62-1, *et seq.*, as amended (collectively, the "Act");

WHEREAS, the parties have undertaken to develop an ownership structure which will facilitate the acquisition, construction and installation of a mixed-use commercial and residential development and economic development project under O.C.G.A. § 36-62-2(6)(N) in Sandy Springs, Georgia (the "Project"), which Project is to be owned by the Authority and leased to the Company pursuant to a Lease Agreement, dated December 1, 2016 (the "Lease Agreement"), which will inure to the economic benefit of the citizens of the City;

WHEREAS, the Company estimates that the costs of the Project will equal approximately $70,000,000 and that the Project will result in the creation of jobs;

WHEREAS, to induce and facilitate the Project, the Authority has made available to the Company taxable revenue bond financing of up to $75,000,000 (the "Bond Financing");

WHEREAS, pursuant to a Memorandum of Agreement Regarding Lease Structure and Valuation of Leasehold Interest, dated December ____, 2016 (the "MOA"), among the Authority, the Company and the Fulton County Board of Assessors (the "Board"), an executed copy of which is attached hereto as Exhibit A, during each year beginning the year following the completion date of the Project, which completion date is currently estimated to occur on or before December 31, 2018 (the "Completion Date"), the Leasehold Interest (as defined in the MOA) of the Company in the Project will be subject to taxation by the applicable governmental jurisdictions at the fair market value of the Leasehold Interest in that year as determined by the Board in accordance with the MOA;

WHEREAS, the City has financed or will finance all or a portion of the costs of acquiring and constructing certain roads, drainage, streetscapes and other infrastructure projects adjacent to the Project (the "Infrastructure Projects");

WHEREAS, the Infrastructure Projects will directly benefit the Project and are an economic inducement to the Company to locate the Project in the City;

WHEREAS, the Authority has found and determined, and does hereby find and determine, that the Project constitutes a lawful and valid public purpose and will further the public purpose intended to be served by the Act; and

WHEREAS, in consideration of the above mentioned benefit to the Project derived from the Infrastructure Projects, the Company has agreed to make certain payments, which are more fully described below.

NOW, THEREFORE, in consideration of the foregoing premises, the parties hereto agree as follows:

Section 1. Representations and Warranties.

The City makes the following representations and warranties:

(a) The City is a municipal corporation duly organized and lawfully operating under the Constitution and laws of the State. Under the Constitution and laws of the State, the City is authorized to execute, deliver and perform its obligations under this Agreement. The City has duly authorized the execution, delivery and performance of this Agreement. This Agreement is a valid, binding and enforceable obligation of the City.

(b) The City has determined that the Infrastructure Projects are in the public interest.

(c) Except as previously disclosed to the Authority and the Company in writing, no approval or other action by any governmental authority or agency or other person is required in connection with the execution, delivery and performance of this Agreement by the City, except as shall have been obtained as of the date hereof.

(d) The authorization, execution, delivery and performance by the City of this Agreement do not violate the laws or Constitution of the State and do not constitute a breach of, or a default under, any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the City, threatened against or affecting the City (or, to the knowledge of the City, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the City from undertaking and completing the Infrastructure Projects, (ii) contesting or questioning the existence of the City or the titles of the present officers of the City to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of this Agreement or (B) materially adversely affect the transactions contemplated by this Agreement.

The Authority makes the following representations and warranties:

(a) The Authority is a public body corporate and politic duly created and validly existing pursuant to the laws of the State. Under the laws of the State, the Authority is authorized to execute, deliver and perform its obligations under this Agreement. The Authority has duly authorized the execution, delivery and performance of this Agreement. This Agreement is a valid, binding and enforceable obligation of the Authority.

(b) The Authority has determined that the Project constitutes a lawful and valid public purpose and will further the public purpose intended to be served by the Act.

(c) Except as previously disclosed to the City and Company in writing, no approval or other action by any governmental authority or agency or other person is required in connection with the execution, delivery and performance of this Agreement by the Authority, except as shall have been obtained as of the date hereof.

(d) The authorization, execution, delivery and performance by the Authority of this Agreement do not violate the laws of the State and do not constitute a breach of, or a default under, any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Authority threatened, against or affecting the Authority in any court or before any governmental authority or arbitration board or tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement or which is reasonably anticipated to adversely affect the validity or enforceability of this Agreement or the ability of the Authority to perform its obligations under any of the foregoing.

The Company makes the following representations and warranties:

(a) The Company is a Delaware limited liability company, which is duly organized, existing and in good standing under the laws of the State of Delaware and authorized to transact business under the laws of the State of Georgia, has the power to enter into this Agreement and to perform and observe its obligations contained herein in accordance with the terms hereof, and has, by proper action, been duly authorized to execute, deliver and perform this Agreement in accordance with the terms hereof.

(b) There are no actions, suits, proceedings, inquiries or investigations pending, or to the knowledge of the Company threatened, against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal which is reasonably anticipated to materially and adversely affect the transactions contemplated by this Agreement or which is reasonably anticipated to adversely affect the validity or enforceability of this Agreement or the ability of the Company to perform its obligations under any of the foregoing.

(c) The execution and delivery by the Company of this Agreement and the compliance by the Company with all of the provisions hereof and the consummation of the transactions contemplated hereby (A)(i) are within the corporate power of the Company, (ii) will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under, its Articles of Organization, its operating agreement, or any commitment, agreement or instrument of whatever nature to which the Company is a party or by which it may be bound, or to which any of its properties may be subject, or any license, judgment, decree, law, statute, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its activities or properties, or (iii) result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement, and (B) have been duly authorized by all necessary action on the part of the Company.

(d) Neither the Company nor any of its business or properties, nor any relationship between the Company and any other person, nor any circumstance in connection with the execution, delivery and performance by the Company of this Agreement, is such as to require the consent, approval or authorization of, or the filing, registration or qualification with, any governmental authority on the part of the Company, except for development, construction and operational permits required in connection with the Project.

(e) This Agreement is a legal, valid and binding obligation of the Company enforceable in accordance with its terms, except to the extent the enforceability hereof may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity, and (ii) bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights heretofore or hereinafter enacted to the extent constitutionally applicable.

Section 2. Company Payments.

The methodology for determining the fair market value of the Leasehold Interest of the Company is set forth in the MOA, which provide that the fair market value of the Leasehold Interest of the Company in the Project shall be equal to the "applicable percentage" (for purposes of the remainder of this Agreement, the "applicable percentage" in the MOA shall be referred to as the "Payment Percentage") for each year as set forth below, multiplied by the fair market value of the fee interest of the Project in such year. The related "Savings Percentage" set forth below is the result of subtracting the Payment Percentage from 100%. The savings provided by the application of the leasehold valuation methodology set forth in the MOA shall be equal to the Savings Percentage for such year multiplied by the assessed value of the Project for such year (40% of the fair market value of the fee interest of the Project) and thereafter multiplied by the millage rates established by Fulton County, Georgia (the "County"), for the County and for the Fulton County School District, and the City (the "Savings Amount").

The Payment Percentage and Savings Percentage in each year during this ten (10)-year period will be as follows:

	Payment Percentage	Savings Percentage
First Year	50%	50%
Second Year	55%	45%
Third Year	60%	40%
Fourth Year	65%	35%
Fifth Year	70%	30%
Sixth Year	75%	25%
Seventh Year	80%	20%
Eighth Year	85%	15%
Ninth Year	90%	10%
Tenth Year	95%	5%

The "First Year" shall be the year commencing on January 1 of the year immediately following the Completion Date (which is currently estimated to occur on or before December 31, 2018) (as further defined in the MOA). Following the Tenth Year, the Leasehold Interest of the Company will be subject to taxation at 100% of the fair market value of the fee interest.

Commencing in the First Year, on or before the date set for the payment of *ad valorem* property taxes in the County generally for such year, the Company shall make payments to the Authority (the "Contract Payments") in the following amounts:

(a) For the First Year, an amount equal to 100% of the Savings Amount; and
(b) For the Second Year, an amount equal to 40% of the Savings Amount.

For the Third through Tenth Years, the Company shall not owe any Contract Payments to the Authority.

Promptly after the Board mails tax bills in the First Year and Second Year, the Authority shall provide the Company at the notice address set forth in Section 5(c) below with an invoice for the amount of the Company Payments due for such year. Each Contract Payment shall be paid to the Authority at the notice address set forth in Section 5(c) below. Upon receipt of each Contract Payment, the Authority shall promptly pay an amount equal to such Contract Payment to the City. The preceding agreement between the Authority and the City shall constitute an intergovernmental agreement as provided in Section 3, below.

Section 3. Intergovernmental Agreement.

This Agreement shall also constitute an intergovernmental agreement under Georgia Constitution Art. IX, Sec. III, Para. I between the Authority and the City. Such intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Georgia Constitution, but shall expire earlier upon its complete performance.

Section 4. Effective Date of this Agreement; Duration of Term.

This Agreement shall become effective as of the date of the closing of the Bond Financing and the interests created by this Agreement shall then begin, and, subject to the other provisions of this Agreement, shall expire on the later of (a) December 31, 2028, or (b) the date the Company Payments have been paid in full.

Section 5. Miscellaneous.

(a) Assignment by the Company. The Company hereby agrees that all rights and benefits of the Company under this Agreement shall be transferred and assigned by the Company to any party to which the Lease Agreement are transferred and assigned and that such transfer and assignment of the Lease Agreement shall be contingent upon the transfer and assignment hereof to such party. Upon any such assignment, the assignee shall be responsible for payment of all Company Payments hereunder and the Company shall have no further obligations under this Agreement. Any such assignment shall not require the consent of the City or Authority, except to the extent the Authority's consent is required under the terms of the Lease Agreement.

(b) Estoppel Certificates. Upon ten business days written request of the Company, the Authority and the City will provide a statement to (a) any lender providing financing for the Project or (b) a proposed assignee of the Lease Agreement concerning (i) whether a default exists under this Agreements, and if so specifying the nature of such default; (ii) whether this Agreement has been amended, and if so, specifying the amendments; and (iii) any other matter concerning this Agreement reasonably requested by such holder or proposed assignee.

(c) Notices. Any notice required to be given by any party pursuant to this Agreement, shall be in writing and shall be deemed to have been properly given, rendered or made only if personally delivered, or if sent by Federal Express or other comparable commercial overnight delivery service, addressed to each other party at the addresses set forth below (or to such other address as the City or the Company may designate to each other from time to time by written notice), and shall be deemed to have been given, rendered or made on the day so delivered or on the first business day after having been deposited with the courier service:

If to the City:	City of Sandy Springs, Georgia 7840 Roswell Road, Building 500 Sandy Springs, Georgia 30350 Attention: John F. McDonough
with a copy to:	Law Office of Wendell K. Willard 7840 Roswell Road Building 300, Suite 330 Sandy Springs, Georgia 30350 Attention: Wendell K. Willard, Esq.
and to:	Gray Pannell & Woodward LLP 3060 Peachtree Road, N.W., Suite 730 Atlanta, Georgia 30305 Attention: James R. Woodward, Esq.

If to the Authority:	City of Sandy Springs Development Authority 7840 Roswell Road, Building 500 Sandy Springs, Georgia 30350 Attention: Chairman
with a copy to:	Law Office of Wendell K. Willard 7840 Roswell Road Building 300, Suite 330 Sandy Springs, Georgia 30350 Attention: Wendell K. Willard, Esq.
If to the Company:	City Springs Owner, LLC c/o Carter & Associates 171 17th Street, Suite 1200 Atlanta, Georgia 30363 Attention: ______________________
with a copy to:	Kilpatrick Townsend & Stockton LLP 1100 Peachtree Street NE, Suite 2800 Atlanta, Georgia 30309 Attention: M. Andrew Kauss, Esq. Facsimile: (404) 541-3262

(d) No Partnership or Agency. No partnership or agency relationship between or among the parties shall be created as a result of this Agreement.

(e) Governing Law; Jurisdiction and Venue. The transactions contemplated hereunder and the validity and effect of this Agreement are exclusively governed by, and shall be exclusively construed and enforced in accordance with, the laws of the State of Georgia, except for the state's conflict of law rules. The Company consents to jurisdiction over it and to venue in Fulton County, Georgia.

(f) Amendments. Any amendments, deletions, additions, changes or corrections hereto must be in writing executed by the parties hereto.

(g) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof.

(h) Counterparts. This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

(i) No Personal Liability of Representatives of Public Bodies. No official, member, director, officer, agent, or employee of the Authority or the City shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such public bodies. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such public bodies into this Agreement.

(j) No Personal Liability of Representatives of Company. No official, member, manager, director, officer, agent, or employee of the Company shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such entity. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, manager, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such entity into this Agreement.

(k) Time is of the Essence. Time is of the essence of this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement and caused it to be delivered as of the following effective date: December ____, 2016.

CITY:

CITY OF SANDY SPRINGS, GEORGIA

By: ______________________________
Mayor

Attest: ______________________________
Clerk

(SEAL)

AUTHORITY:

CITY OF SANDY SPRINGS DEVELOPMENT AUTHORITY, GEORGIA

By: ______________________________
Chairman

Attest: ______________________________
Secretary

COMPANY:

CITY SPRINGS OWNER, LLC,
a Delaware limited liability company

By: City Springs Joint Venture, LLC, a Delaware limited liability company, its sole member

By: City Springs Manager, LLC, a Georgia limited liability company, its manager

By: Sandy Springs City Center, LLC, a Georgia limited liability company, its sole member

By: Carter City Springs Member, LLC, a Georgia limited liability company, its manager

By: Carter City Springs Manager, LLC, a Georgia limited liability company, its sole member

By: CHE Real Estate, LLC, a Georgia limited liability company, its sole member

By: Carter Holding Enterprises, LLC, a Georgia limited liability company, its sole member

By: Carter Holding Enterprises Principals, LLC, a Georgia limited liability company, its sole member

By: ______________________________
Name: ____________________
Title: ____________________

EXHIBIT A

Memoranda of Agreement Regarding Lease Structure
and Valuation of Leasehold Interest

FIRST AMENDMENT TO LEASE AGREEMENT

This **FIRST AMENDMENT TO LEASE AGREEMENT** (this "**First Amendment**"), dated as of December __, 2016 is by and between the **CITY OF SANDY SPRINGS DEVELOPMENT AUTHORITY** (the "**Issuer**"), a public body corporate and politic created and existing under the laws of the State of Georgia, party of the first part, and **JLB CHASTAIN LLC** (the "**Company**"), a Georgia limited liability company, party of the second part.

W I T N E S S E T H:

WHEREAS, the Issuer is a development authority and public body corporate and politic duly created pursuant to the Development Authorities Law of the State of Georgia, O.C.G.A. § 36-62-1, *et seq*. (the "**Act**") and activated by resolution of the governing body of the City of Sandy Springs (the "**City**"), the area of operation of which is the City; and

WHEREAS, the Act provides that the Issuer is created to develop and promote trade, commerce, industry and employment opportunities for the public good and the general welfare within the City and is authorized by the Act to issue its revenue bonds to acquire land, buildings and related personal property, which revenue bonds are required to be validated pursuant to the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, *et seq*.), as heretofore and hereafter amended, and other applicable provisions of law; and

WHEREAS, the Act further authorizes and empowers the Issuer: (i) to lease any such project at a rental which, together with other revenues which may be pledged for such purpose, shall be sufficient to pay debt service on such revenue bonds and to pay all other expenses which the Issuer may incur in connection with the undertaking; (ii) to pledge, mortgage, convey, assign, hypothecate or otherwise encumber such projects and the revenues therefrom as security for the Issuer's revenue bonds; and (iii) to do any and all acts and things necessary or convenient to accomplish the purpose and powers of the Issuer; and

WHEREAS, in furtherance of the public purposes of the Issuer as set forth in the Act, the Issuer has (i) issued its Taxable Industrial Development Revenue Bond (JBL Chastain LLC Project), Series 2014 (the "**Bond**"), having a maximum principal amount not to exceed $65,000,000 under and pursuant to that certain Indenture of Trust dated as of December 1, 2014 (the "**Indenture**") between the Issuer and U.S. Bank National Association, as trustee (the "**Trustee**"); (ii) acquired title to the Project (as defined in the Lease described below); and (iii) leased the Project to the Company under that certain Lease Agreement dated as of December 1, 2014 (the "**Lease**"); said issuance of the Bond and the acquisition and lease of the Project is herein referred to as the "**Tax Savings Transaction**"~~)~~; and

WHEREAS, the Issuer, the Company and the Fulton County Board of Assessors (the "**Tax Assessors**") entered into that certain Memorandum of Agreement Regarding

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Lease Structure and Valuation of Leasehold Interest dated August 28, 2014 (the "**Tax Memorandum**") which described the methodology to be used by the Tax Assessors to assess property taxes with respect to the leasehold interest of the Company under the Lease; and

WHEREAS, the Issuer, the City and the Company entered into that certain Memorandum of Agreement dated as of December 31, 2014 regarding the realignment of the intersection of Windsor Parkway and Roswell Road (the "**Intersection Realignment Agreement**") under which the Company agreed to use certain property tax savings resulting from the Tax Savings Transaction as determined by the Tax Memorandum to make certain contract payments to the Authority for the benefit of the City to offset certain of the costs of said intersection realignment; and

WHEREAS, the Company has indicated its intention to cancel the outstanding Bond held by it, but continue to lease the Project from the Issuer and the parties hereto wish to amend the Lease in order to provide for certain additional rental payments.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

Section 1. Additional Rent Provision.

(a) Section 5.3 of the Lease is hereby amended by adding to the end thereof the following new paragraphs:

> "The Lessee hereby agrees to pay to the Authority during the Lease Term additional rent (the "Intersection Rent") in the years set forth below equal to the result of the following multiplication: (i~~a~~) an amount equal to 40% of the fair market value of the Project as determined by the Fulton County Board of Assessors for such calendar year ~~pursuant to the Tax Memorandum~~, (ii) multiplied by the millage rates applicable to the Project as determined by the City and Fulton County, Georgia, (iii) multiplied by the Savings Percentage for such year as set forth below, and (iv) multiplied by the Payment Percentage for such year as set forth below.

Year	Savings Percentage	Payment Percentage
2017~~1~~	50%	57.5%
2018~~2~~	45%	100%
2019~~3~~	40%	100%
2020~~4~~	35%	66 2/3%
2021~~5~~	30%	66 2/3%
2022~~6~~	25%	66 2/3%
2023~~7~~	20%	66 2/3%
2024~~8~~	15%	66 2/3%
2025~~9~~	10%	66 2/3%
2026~~10~~	5%	66 2/3%

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Promptly after the Fulton County Tax Commissioner mails tax bills for each year, the Issuer shall provide to the Lessee an invoice for the amount of such Intersection Rent due for such year. Each Intersection Rent shall be paid by the Lessee to the Issuer at the notice address set forth in Section 7(c) of the Intersection Realignment Agreement. Upon receipt of each Intersection Rent payment, the Issuer shall promptly pay an amount equal to such Intersection Rent payment to the City.

Notwithstanding the foregoing, the Lessee shall receive a credit against making the additional Intersection Rent payments above in any calendar year by the amount of Contract Payments (as defined in the Intersection Rea~~A~~lignment Agreement) made by the Company under Section 3 of the Intersection Rea~~A~~lignment Agreement with respect to such calendar year.

(b) Section 5.4 of the Lease Agreement entitled “Place of Rental Payments” is hereby amended by adding at the end thereof the following new sentence: “Payments of Intersection Rent described in ~~the last paragraph of~~ Section 5.3 of this Lease shall be paid to the Issuer as provided in the penultimate paragraph of Section 5.3 hereof~~and the Issuer agrees to promptly pay the amount thereof to the City~~.”

Section 2. Cancellation of Bonds; Rights of Bondholder. Section 9.4 of the Lease is hereby amended by deleting the last sentence thereof and inserting in lieu thereof the following: The Lessee agrees to give notice to the Issuer and the Trustee of any prepayment at least forty-five (45) days (or if the Lessee is then the holder of 100% of the outstanding Bonds, at least five (5) days) prior to the prepayment date or such shorter period of time as may be acceptable to the Issuer and the Trustee. ~~To the extent that the Lessee is the registered holder of the Bonds and elects to prepay the Bonds by cancelling the same as provided in Section 9.4 of the Lease and Section 302 of the Indenture,~~ The parties hereto acknowledge and agree that in connection with any such prepayment, the Lessee shall not be obligated to~~but not~~ terminate the Lease~~ at that time~~ in which case~~,~~ the Lessee shall be granted all of the rights of the Bondholder provided under this Lease~~hereunder~~ ~~and under the Indenture~~ (including, without limitation, the right to give any consents or directions in accordance with the provisions hereof~~such documents~~) as if the Bonds remained outstanding and were held by Lessee until the termination or sooner expiration of this~~e~~ Lease. If the Bonds are prepaid in full, the parties agree to effect the termination of the Indenture. Notwithstanding the foregoing, if the Bonds are prepaid, but the Lease Term continues, such prepayment shall not affect the obligations of the Lessee under the Intersection Realignment Agreement (as defined in Section 5.3 hereof) or any payments of Intersection Rent (as defined in Section 5.3 hereof).”

Section 3. Amendment to Purchase Option. Section 11.2 of the Lease entitled “Option to Purchase Project” is hereby amended by deleting subsection (c) thereof in its entirety and inserting in lieu thereof the following new subsection (c):

"(c) the sum of ten dollars ($10.00), plus the amount of any Intersection Rent payable pursuant to Section 5.3 hereof that is due and payable prior to the date of such purchase, which shall be paid by the Lessee to the Issuer."

Section 4. Construction and Binding Effect. This First Amendment constitutes the entire agreement of the parties concerning the subject matter hereof and supersedes any prior agreements with respect thereto. Other than the amendments to and other provisions of this First Amendment~~ to the Lease~~, the terms and conditions of the Lease shall remain in full force and effect. This First Amendment shall inure to the benefit of the Issuer, the Company, the Holder, any Lender and their respective successors and assigns, and shall be binding upon the Issuer and the Company and their respective successors and assigns.

Section 5. Severability. In the event any provision of this First Amendment shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6. Amendments, Changes, and Modifications. This First Amendment may not be amended, modified, altered, or terminated, except as provided in the Lease Agreement and the Bond Resolution.

Section 7. Execution of Counterparts. This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8. Law Governing Construction of this First Amendment. This First Amendment is prepared and entered into with the intention that the laws of the State of Georgia, exclusive of such state's rules governing choice of law, shall govern its construction.

Section 9. No Issuer Liability; Immunity of Members, Officers, and Employees of Issuer. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this First Amendment or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in the Indenture against any director, member, officer, or employee, as such, in his or her individual capacity, past, present, or future, of the Issuer, or any successor Person, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this First Amendment is solely a corporate obligation of the Issuer payable only from the funds and assets of the Issuer herein specifically provided to be subject to such obligation and that no personal liability whatsoever shall attach to, or be incurred by, any director, member, officer, or employee, as such, past, present, or future, of the Issuer, or of any successor Person, either directly or through the Issuer, or any successor Person, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Company whether contained in this First Amendment or in the Bond or any documents executed in connection therewith or to be implied hereunder or thereunder as being supplemental hereto or thereto, and that all personal liability of that character against every such director, member, officer, and employee of the Issuer or any such successor Person is, by the execution of this First Amendment and as a condition of and as part of the consideration for the execution of this First Amendment, expressly waived and released by the Company. The immunity of directors, members, officers, and employees of the Issuer under the provisions contained in this Section shall survive the completion of the Project and the termination of the Lease, as amended by this First Amendment.

Section 10. Immunity of Directors and Employees of Company. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Company contained in this First Amendment or for any claim based hereon or otherwise in respect hereof, against any stockholder, director, limited partner (but not general partner), member, manager, employee, trustee for, or agent of the Company or any successor entity, in his or her individual capacity, past, present, or future, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this First Amendment is solely an obligation of the Company and that no personal liability whatsoever shall attach to, or be incurred by, any such stockholder, director, limited partner (but not general partner), member, manager, employee, trustee for, or agent, either directly or through the Company, or any successor entity, under or by reason of any of the obligations, covenants, promises, or agreements contained in the Lease, as amended hereby, or to be implied here from, and that all personal liability of that character against every such stockholder, director, limited partner (but not general partner), member, manager, employee, trustee for, or agent is, by the execution of this First Amendment and as a condition of and as part of the consideration for the execution of this First Amendment, expressly waived and released. The immunity of each such stockholder, director, limited partner (but not general partner), member, manager, employee, trustee for, or agent of the Company under the provisions contained in this Section shall survive the termination of the Lease, as amended hereby.

Section 11. Definitions. All capitalized words and terms used in this First Amendment that are not defined herein shall have the meanings ascribed to such words and terms in the Lease or the Indenture.

[Signatures begin on following page]

IN WITNESS WHEREOF, the Issuer has executed this First Amendment by causing its name to be hereunto subscribed by its Chairman or Vice Chairman and by causing the official seal of the Issuer to be impressed hereon and attested by its Secretary or Assistant Secretary and the Company has executed this First Amendment by causing its name to be hereunto subscribed by its duly authorized officer, all being done as of the day and year first above written.

SANDY SPRINGS DEVELOPMENT AUTHORITY

By:_______________________________
Chairman

(SEAL)

Attest:

By:_______________________________
Secretary

Signed, sealed and delivered in the presence of:

____
Unofficial Witness

____
Notary Public

Date of Execution by Notary: ________

Commission Expiration Date: ________

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JLB CHASTAIN LLC

By: JLB Chastain Management L.P., a Georgia limited partnership, its Managing Member

By: JLB Chastain GP LLC, a Georgia limited liability company, its General Partner

By: ______________________
Name:
Title:

(SEAL)

Signed, sealed and delivered in the presence of:

____
Unofficial Witness

____
Notary Public

Date of Execution by Notary: ________

Commission Expiration Date: ________

[NOTARY SEAL]

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~~**EXHIBIT A**~~

~~**DESCRIPTION OF THE LEASED LAND**~~