

MEMORANDUM

TO: Julie E. Timm, GRTC Transit, Chief Executive Officer

FROM: Capital City Partners, on behalf of Navy Hill redevelopment project

RE: Information concerning locating GRTC transfer station within Navy Hill

DATE: Saturday, November 30, 2019

CC: Susan Eastridge, Michael Hallmark

**Overview:**

This memo will provide a summary of the status of the process of determining whether a suitable location for a GRTC transfer facility within Navy Hill can be identified.

Information chronicling the discussions to date on the topic of locating a GRTC transfer station within the Navy Hill redevelopment project is compiled and attached to this memorandum. This information includes:

- Excerpts from the November 9, 2017 City of Richmond Request for Proposals that includes a requirement that respondents address the “inclusion of a bus transfer facility into the ground floor of a proposed building, which will (be) subject to detailed coordination with GRTC as facilitated by the City”.
- Excerpts from the NH District Corporation’s (NHDC) February 9, 2018 proposal to the City which included a concept for the inclusion of a bus transfer facility into the ground floor of “Block I” (the site currently known as Marshall Plaza) at 10<sup>th</sup> and Marshall.
- A draft term sheet (drafted December 12, 2018) for a conceptual lease between the “Landlord” (NHDC or affiliate) and GRTC.
- Supplemental information provided by the City administration to City Council, dated October 29, 2019 that includes the references to a GRTC transfer facility within the agreements negotiated between the City and NHDC concerning the redevelopment project.
- Supplemental information provided by NHDC to the Navy Hill Commission dated November 21, 2019 concerning the development of “Block D” where currently adjacent to this site is the temporary GRTC transfer facility.
- For information purposes, an article dated August 2014 which explains the process for determining lease costs related to “build to suit” premises such as the inclusion of a specialized facility for GRTC within the ground floor of a building.

### Process to Date:

The process to date relating to the proposed inclusion of a GRTC transfer facility within the Navy Hill redevelopment project has been conceptual in nature.

From the time of the issuance of the City's RFP (November 9, 2017), the discussions have ensued for more than two years. NHDC's response to the City RFP on February 9, 2018 (roughly 22 months ago), included the concept of including a transfer facility within "Block I" which is the current site where Marshall Plaza (DSS offices) are located.

When negotiations started up mid-year 2018, the City felt that the Block I proposed site was not the best solution. In December 2018, NHDC provided a draft term sheet to the City related to lease terms for the proposed transfer facility – however it was not location-specific.

The NHDC development team studied various alternatives, with GRTC involvement, and a conceptual idea for the facility within Block C was determined to be a better solution. Up until earlier this fall, discussions between NHDC and the City and GRTC have centered on this location.

To date, only conceptual planning has been done. Until such time as the project receives City Council approval and project funding can be put in place, design work to prove out the concept and to then obtain conceptual construction pricing on the design cannot be done. Further, the City's RFP consultant cautioned both GRTC and NHDC to not proceed with actual building design until such time as GRTC was able to receive FTA approvals for the expenditure of funds for fitting out the GRTC facility. The FTA approval of funds adequate to complete the transfer facility's improvements is a critical early step as without the GRTC facility, the design and development of Block C will be vastly different.

More recently, with the inclusion of GRTC's new CEO, discussions between the Navy Hill development team, have broadened to consider whether Block C is the optimum long-term solution for a transfer facility. This is due mainly to a few factors, which include:

- The facility requirements included in the City's RFP over two years ago may not reflect the current needs and potential specifications of a transfer facility now that the Pulse system is up and running successfully.
- An unknown challenge may be the ability for a privately developed, privately owned building to provide terms to GRTC that will satisfy the requirements of the FTA funding. A component to this issue may relate to the City providing GRTC with funding to make the annual lease payments for the facility within Block C when such funding would be subject to annual appropriations risk.
- The inability to confirm the actual cost of the related lease payments for the Block C location until such time that design has been progressed far enough along that reliable construction costs can be known. This design work will move forward at the point in time when GRTC's FTA funding is approved.

## Process Going Forward:

The Navy Hill development team will continue to collaborate with GRTC to figure out the optimum location and financial solution for a transfer facility. We will continue to explore the Block C concept along with other locations and facility solutions alongside the GRTC management team.

At this conceptual level, the Navy Hill development team estimates the following range of terms and costs will need to be determined for the GRTC lease within Block C:

- A term sheet for the lease related to a GRTC transfer facility is a “condition precedent” to the Financial Close (arena bond sale) contemplated within the Development Agreement. We currently anticipate the Financial Close to occur within 6 to 8 months following City Council approval of the project.
- An annual rent constant (currently estimated to be between 6% and 8% of the costs required to design and build the transfer facility shell) will be analyzed and agreed to by the parties (see informational article concerning rent constants).
- The negotiated rent constant will set the base rent and the parties will also agree to what rent escalations will be included within the lease.
- Additionally, the parties will need to determine 1.) the length of the lease term; and 2.) a lease structure that will meet the requirements of both parties.
- The proposed investors and lenders providing the funding for Block C will need to concur with the GRTC lease terms.
- A schedule will need to be developed between the parties once the project receives City Council approval. The schedule will need to include the steps and length of time for obtaining FTA approval in front of the Block’s design and construction process. The critical path for Navy Hill may require another temporary location for the current transfer facility on 9<sup>th</sup> Street due to proceeding with the development of Block D.
- Over the last two to three months, the development team has worked with some of its consultants to create enough conceptual detail for the facility in order to produce an early estimate of costs. A conceptual estimate for the GRTC facility (shell only) is currently being studied by a qualified design and construction team. This team expects to be able to provide a conceptual cost to the development team by early-to-mid December.
- By way of example only, should the cost of the facility shell be \$150 per square foot, the total cost of the shell would be \$9.75 million (for the 65,000 square foot facility as specified within the City’s RFP). At a 6% rent constant, annual base rent (prior to escalations) would be \$585,000; at an 8% rent constant, annual base rent (prior to escalations) would be \$780,000. Again, this is just an example until we have a conceptual estimate of costs from the design/construction team.
- In addition to base rent, there will be annual operating costs. The ownership of Block C will be responsible for maintaining the facility on a day-to-day basis and will pass those costs through, pro rata, to GRTC for repayment. These costs will include janitorial, trash

## Capital City Partners LLC

removal, utilities, taxes, repair and maintenance, insurance and taxes. An estimate of operating costs prepared by local brokerage firm Colliers for Block C indicated \$10.61 per square foot per year - for Year One of building operations. For the 65,000 square foot facility, this would be around \$690,000/year.



**City of Richmond, VA**

Request for Proposals for the North of Broad/Downtown  
Neighborhood Redevelopment Project

Issued: November 9, 2017

**Due date: February 9, 2018, 5 p.m. Eastern**



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To the extent that existing parking garages or metered on-street parking spots will be taken out of service temporarily or permanently, provide number of spaces lost, by location, and the duration (start and end date) for which they will be out of service.

### **3.11 Local Job Creation and Local Hiring**

- A. The Proposal shall, to a meaningful degree, endeavor to provide a portion of construction and end-user jobs for Richmond residents.
- B. The City has a commitment to the development of its MBE and ESB communities and encourages the use of MBEs and ESBs on the North of Broad/Downtown Neighborhood Redevelopment Project to the fullest extent reasonably possible. Prior projects in Richmond have used MBE/ESB participation goals as high as 40%. After reviewing the Proposals, the City will work with the successful Respondent to establish the highest reasonable goals (as contrasted with formal requirements) given the availability of minority and emerging small businesses for the scope of work envisioned by the Project. The City's Office of Minority Business Development is available at 804-646-3985 to serve as a resource in identifying local MBEs and ESBs.
- C. With respect to end-user jobs for Richmond residents, the Proposal shall identify the training opportunities that will be created and the job-training partners that will be involved in the Project.

### **3.12 GRTC Transfer Station and Assets/Public Transportation**

- A. The City recognizes the integral role of transit in development and economic growth. The Pulse BRT (bus rapid transit) is one example of the City's acknowledgement of the role transit plays in modern cities. The City expects the Project to incorporate the best practices of New Urbanism and transit connectivity into the development plan. In doing so, it should consider two GRTC assets in the vicinity of the Project Area: the bus transfer station and the GRTC Pulse BRT line. Proposals shall address and incorporate both assets.
- B. The City believes that including the GRTC transfer station in the Project offers an opportunity to fully incorporate transit-oriented development best practices. The GRTC desires to replace the current transfer station in the Project Area with a facility that will better serve the GRTC's ridership and more fully incorporate transit into the fabric of the City.

## **4 Response Format**

### **4.1 General**

#### **4.3.14 Impact on GRTC Transfer Station**

- A. The City has increasingly recognized the integral and vital role of transit in development and economic growth. The recent approval of the Pulse BRT is an acknowledgement of Richmond's commitment to transit and connectivity. In recognition of the important role of transit in the project, the Respondent shall include a replacement for the existing bus transfer facility. The Respondent should provide for the inclusion of a bus transfer facility into the ground floor of a proposed building, which will subject to detailed coordination with GRTC as facilitated by the City.
- B. The bus transfer facility will require approximately 65,000 square feet with a ceiling height of, at least, 22 feet. While the City and GRTC will consider any proposed site for the bus transfer station, sites that provide the best connection to the Pulse BRT and Broad Street will be preferred.
- C. The GRTC will be responsible for developing the on-site improvements and already has over \$9 million in federal funding to support that development.
- D. The bus transfer facility will be built in accord with Federal Transit Administration (FTA) regulations. It will be the responsibility of GRTC to secure federal approval of the project and to minimize the regulatory impact of that project on the overall development.

#### **4.3.15 Proposed Transition Plan and Schedule**

Provide a transition plan and schedule describing how the Respondent will ensure the orderly completion of the project. The plan should identify the Respondent's planned date (expressed as days from executing a contract with the City) for achieving significant transactions milestones. The schedule should include the dates for all key planned activities, including any actions needed to be taken by City Council or other authorizing bodies and the EDA or other political subdivisions needed to effect the issuance of proposed Project debt.

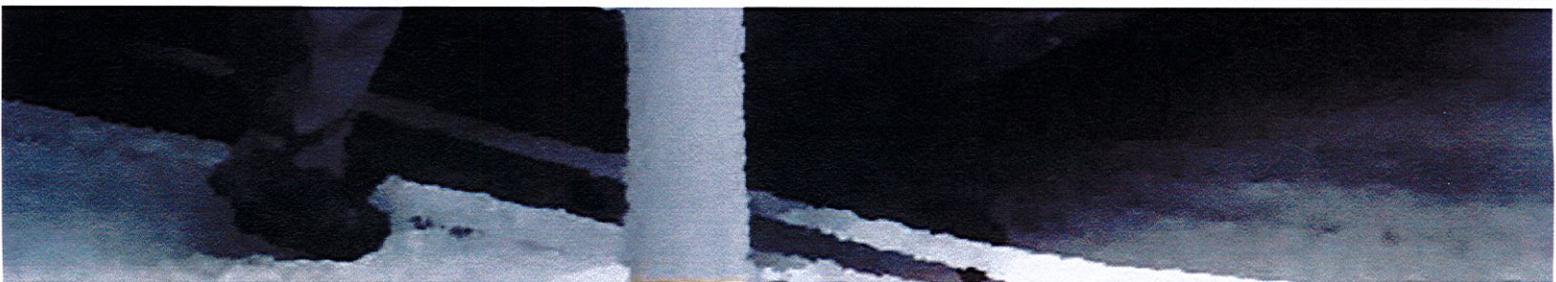
#### **4.3.16 Concept Plans/Renderings**

As a part of the response, Respondents shall provide applicable site plans, project renderings, traffic studies and any other materials that will aid the City in its review of the submission.

## **5 Exhibits and Appendices**



12 Impact on GRTC Transfer Station 4.3.14



## 4.3.14 Impact on GRTC Transfer Station

### A. Demonstrate concepts for inclusion of new GRTC Transfer station

The comprehensive redevelopment of the area described in the Plan provides an opportunity to locate a permanent downtown bus transfer center downtown. The process of developing such a use within the District must be part of a larger ongoing community dialogue that will help ensure that inevitable conflicts of public realm uses (e.g., streets, sidewalks and storefront space) be included in a prioritized analysis, based on more community input and factoring the impact of the implementation of bus rapid transit and bus route network re-alignment on ridership patterns.

At least two principles guided the original selection of the current area set aside for the temporary bus transfer center: 1) that it would be temporary, and 2) its location was feasible in the area due to little development and traffic. The existing unsheltered configuration offers no basic protection for bus passengers from weather, nor does it provide any other elements like restrooms or water and food essential for a permanent bus transfer center. Going forward, mixed-use development built in the District consistent with the City's Master Plan and the Pulse Corridor Plan will increase pedestrian and bicycle traffic, and fundamentally change the original guiding principles.

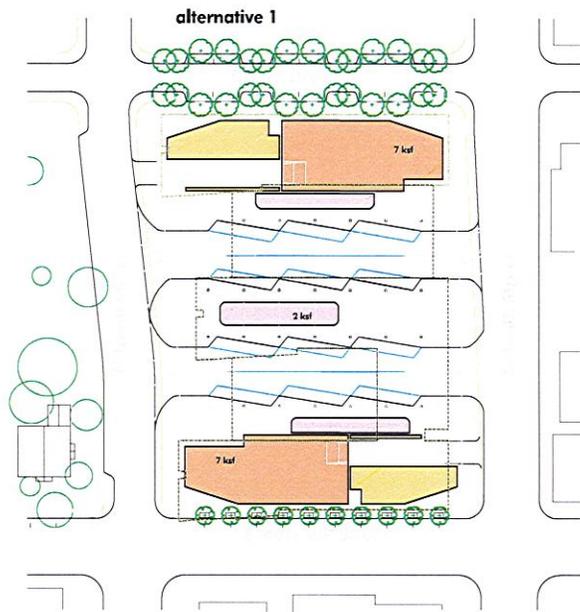
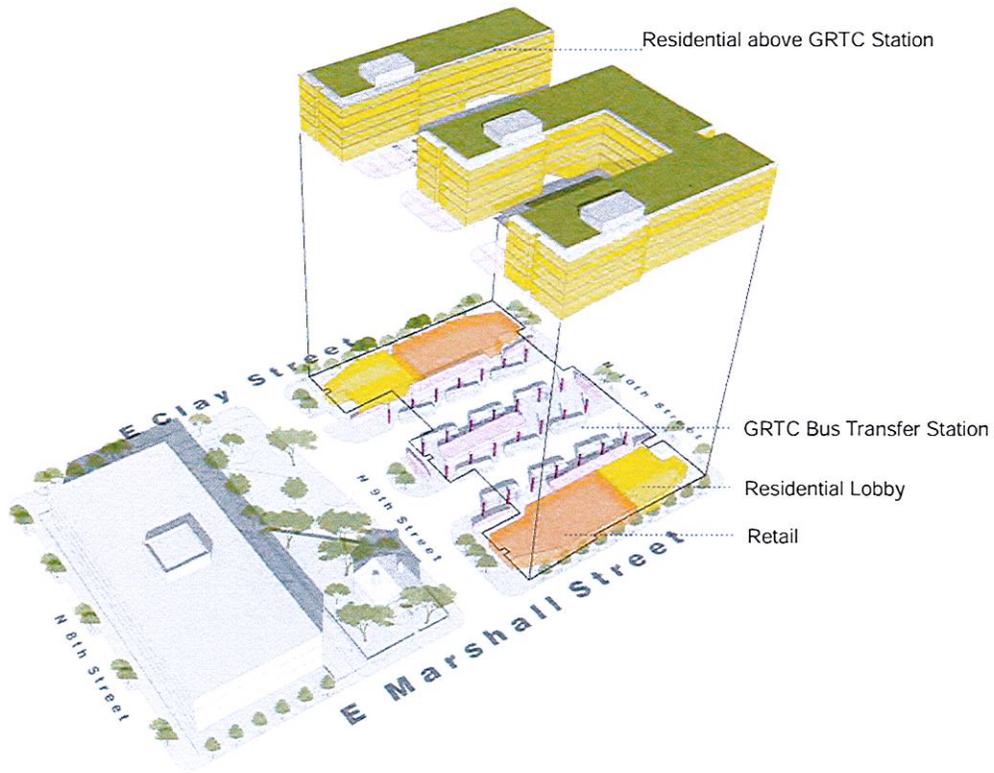
The Plan envisions an area with active street uses, increased walkability, more bikes, and vehicular traffic all resulting from the higher development densities proposed. Those modalities will all be competing for the same limited circulation areas, and all must be accommodated there safely. Beyond safety issues however, the movement of people and vehicles within the District must be planned to enhance the experience of downtown living.

The Plan proposes to build a Richmond community where one was lost to previous public works initiatives – a neighborhood for people who choose to be downtown because of the opportunity to walk to work, to services, to restaurants and entertainment. The streets, the sidewalks, and storefront businesses all must be thoughtfully considered to support this goal or the District will not evolve into the community of opportunity suggested with much public input through the Pulse Corridor Plan.

Tasked by the RFP with demonstrating concepts for a new permanent GRTC bus transfer station, the development team created two concepts:

1. Parcel I: At-grade access with parallel center bay island – 12 total bus bays. Column locations allow for unrestricted vertical development above
2. Parcel I: At-grade access with angled bays – 14 total bus bays. Column locations that allow for bus movement may restrict configuration of overhead development. This configuration could also allow for a development pad for an upper story use.

Based on the results of community engagement cited in Section 4.3.12 above, we recommend that any implementation of a permanent bus transfer station be informed by additional public engagement in the manner proposed above, and with important updated information upon the implementation of Pulse and the accompanying bus route network re-alignment



GRTC Lease Terms – Transit Station  
(drafted December 12, 2018)

- Lease Term: The Lease shall be for a term of \_\_\_ years, commencing on completion of construction and delivery of possession of the Transit Station to GRTC for completion of Tenant's Work.
- Landlord's Work: In consultation with GRTC, Landlord, at its sole cost and expense, shall be responsible for the design, development and construction of the Transit Station, exclusive of Tenant's Work.
- Tenant's Work: GRTC, at its sole cost and expense, shall be responsible for the acquisition and installation of all furniture, equipment and trade fixtures required by GRTC for the operation of the Transit Station.
- Base Rent: Landlord shall perform Landlord's Work on an open book basis. The initial Base Rent payable by GRTC under the Lease shall be an amount determined by multiplying the Project Costs by [ \_\_\_%]. Thereafter, during the Lease Term, the Base Rent shall increase annually by [ \_\_\_%].
- Project Costs: Project Costs shall include all costs and expenses incurred by Landlord in connection with Landlord's Work, including, without limitation, (i) all development costs, (ii) all site work costs, (iii) all construction costs, (iv) all soft costs, including, without limitation, design professional fees, engineering fees, attorneys' fees and permit fees, and (v) all financing costs incurred by Landlord in connection with Landlord's securing construction financing for Landlord's Work. Landlord and GRTC shall mutually agree upon a budget setting forth the estimated Project Costs prior to execution of the Lease.
- Full Service Lease: During the Lease Term, Landlord, at its sole cost and expense, shall be responsible for all maintenance and repairs required to be performed at the Transit Station in order to keep the Transit Station in good condition and repair, and GRTC, at its sole cost and expense, shall be responsible for all maintenance and repairs required to be performed in order to keep GRTC's furniture, equipment and trade fixtures at the Transit Station in good condition and repair.
- Lease Form: The form of Lease shall be mutually agreed upon by Landlord and GRTC.



# Richmond City Council

The Voice of the People

Richmond, Virginia

## Office of the Council Chief of Staff

**TO** Lenora Reid, Acting Chief Administrative Officer  
Leonard Sledge, Director of Economic Development  
Matt Welch, Senior Policy Advisor  
Jeff Gray, Senior Policy Advisor to the CAO

**FROM** Meghan Brown, Interim Council Chief of Staff

**COPY** Cynthia Newbille, President

**DATE** October 29, 2019

**RE:** October 28<sup>th</sup> Navy Hill Work Session – Follow Up Questions

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1.) What is the timeline for development of the affordable housing units?

**Response:**

Block	Construction Start	Construction Completion	Market Rate Units	Affordable Units	Total Units	Aff. Unit % on Block
A1	7/18/2020	3/1/2023	0	0	0	
A2	7/30/2021	3/1/2023	188	42	230	18.26%
A3	7/1/2021	3/1/2023	0	0	0	
B	4/17/2022	10/19/2023	169	44	213	20.65%
C	6/7/2021	4/5/2023	190	23	213	10.7%
D	12/10/2021	12/4/2023	0	0	0	
E	8/29/2021	1/3/2023	65	21	86	24.41%
F	12/11/2020	1/3/2023	0	0	0	
I	6/12/2023	1/11/2025	438	51	489	10.42%
N	8/12/2023	5/10/2025	453	57	510	11.17%
U	6/12/2022	3/10/2024	341	42	383	10.96%
<b>Total</b>			<b>1,844</b>	<b>280</b>	<b>2,124</b>	<b>13.18%</b>

Source – The above table combines the attached NHDC responses previously submitted to the NH Advisory Commission in order to show NHDC's

Relocation costs could potentially be funded from either or a combination of (1) Social Services' base budget and (2) the balance of funds held by the Advantage Richmond Corporation.

Any new lease for the relocation of DSS would require approval by City Council as the governing body.

Note: Although DSS began the process of searching for a new location in 2017, a location has not yet been identified. Currently, the Advantage Richmond Corporation ("ARC") owns Marshall Plaza and leases space to the City for the use of social services. DSS expenditures under the lease are budgeted in the general fund each year and reimbursed by the Commonwealth at 84.5%.

- 7.) How will the GRTC Transfer Center be funded? Who will pay for what?
- 8.) What is the contingency plan for funding the outfit of the GRTC Transfer Station if funding from the Federal government is insufficient? Will GRTC be expecting the City to cover the cost?

**Response to Q7 + Q8:**

As contemplated by the Development Agreement:

- Pursuant to the Master Plan (Exhibit L), the Developer will be responsible for constructing at its private expense a mixed-use building on Block C containing a minimum of 483,500 square feet (195,500 sf for residential use, 213,000 sf for office use, 10,000 sf for retail use, and 65,000 sf for GRTC Transit Center use) with a minimum capital investment of \$157,286,000.
- The 65,000 square feet of space constructed by the Developer for GRTC to subsequently buildout and use as the GRTC Transit Center (the "Provided Space") will be semi-finished space and must conform with the provisions set forth in Schedule C to the Development Agreement (see below).
- Per Schedule C, GRTC will be responsible for the buildout of/making the necessary improvements to the Provided Space in order to meet GRTC's Transit Center needs.
  - Note – GRTC's responsibility to complete onsite improvements for the transit center is consistent with the provisions set forth in Section 4.3.14 of the original RFP issued by the City in November 2017. Section 4.3.14 of the RFP further indicates that GRTC has identified over \$9 Million in federal funds available for GRTC's use to fund such transit center improvements.

- Development Agreement Section 2.2(g) sets forth a detailed process for the City, GRTC, and the Developer (i) to determine the plans for the Provided Space via a working group, (ii) to come to agreement on the essential terms for GRTC to lease the Provided Space from the Developer, and (3) to work through the FTA process for securing approval of the lease.

Notably, a condition precedent to issuance of the Arena Bonds (i.e., "Financial Close") is agreement/approval by the City, GRTC, and the Developer on a term sheet for the GRTC lease. As set forth in section 2.2(g)(iii)(B), the term sheet will include specifics as to costs and delineation of costs between the parties to the lease (GRTC and NHDC).

- Nothing in the Development Agreement obligates or contemplates expenditure of City funds for construction of the Transit Center.

### **Excerpts from Development Agreement**

#### **Schedule C - Development Requirements for Block C**

Block C will be developed in such a manner as to contain approximately 65,000 square feet of space at ground level (the "Provided Space") to be utilized as the GRTC Transit Center. Unless otherwise agreed by GRTC, the Provided Space shall be developed in accordance with the following requirements:

- (i) Ingress to and egress from the Provided Space shall be available from both E. Leigh Street and N. 9th Street (unless otherwise directed by GRTC and approved by the City's Department of Public Works);
- (ii) The Provided Space shall be at least 65,000 square feet, in a configuration approved by GRTC and suitable to operate 12 bus bays or such lesser amount of bays deemed sufficient by GRTC;
- (iii) Clearance/ceiling height of the Provided Space shall be at least 22 feet or such lesser amount deemed sufficient by GRTC;
- (iv) Utilities shall be built into the Provided Space by Developer in accordance with GRTC's needs;
- (v) The Provided Space as constructed by, and provided to GRTC from, NHDC shall be semi-finished space with the appropriate strength and characteristics to accommodate the intended use; and
- (vi) The Provided Space shall be semi-finished space, and GRTC shall be responsible for completing the buildout of/making the necessary improvements to the Provided Space to complete GRTC's Transit Center thereon. The space above the ground level on Block C may be developed by the

Developer pursuant to the provisions of this Development Agreement.

Section 2.2(g) - Transit Center

(i) The Developer shall fund, at its sole cost and expense, the design and construction of the Provided Space for the GRTC Transit Center in accordance with the Project Schedule, this Agreement, including Schedule C (Development Requirements for Block C), and the GRTC Lease, and, thereafter, make the Provided Space available to GRTC in accordance with the GRTC Lease.

(ii) The Parties shall establish a working group among the City, the Developer, and the GRTC to agree on a Concept Plan for the Provided Space to be developed by the Developer, at its sole cost and expense, and used as the basis for Closing on Block C (as identified in the Master Plan).

(iii) As a condition precedent to Financial Close, the Developer will negotiate and finalize a term sheet approved by GRTC, the City and the Developer, to serve as the basis for the GRTC Lease. The City's approval of the term sheet shall not be unreasonably withheld, conditioned or delayed. The term sheet will include details on, among other issues: (A) the term of the GRTC Lease, (B) costs or delineation of costs, (C) GRTC's exclusive use of the Provided Space once it is made available to GRTC by the Developer, (D) traffic management, (E) FTA approval, (F) scheduling, (G) GRTC's oversight of the construction of the Provided Space by the Developer and the interface between GRTC's fit-out of the Provided Space once the Provided Space is made available to GRTC by the Developer and the Developer's ongoing construction on such Project Segment, (H) establishing a process for finalizing the facilities services, operational and functional requirements of the Provided Space and (I) other standard terms and conditions, including indemnities and insurance requirements.

(iv) The Developer and GRTC must negotiate and finalize the GRTC Lease in accordance with the Project Schedule for submission to the Federal Transit Administration ("FTA"). The terms of the GRTC Lease shall be substantially consistent with those terms set forth in the term sheet described in (iii) above. If the FTA requires any modifications to the agreed upon form of GRTC Lease, such modifications shall be subject to the approval of GRTC and the Developer, which approval shall not be unreasonably withheld, conditioned or delayed if such modifications are not material or, if material, such modifications are not technically or financially impracticable

to implement. Execution of the GRTC Lease will be a condition precedent to Closing on Block C, unless the sole reason for such condition precedent not being satisfied is GRTC's failure to execute the GRTC Lease.

**Excerpt from Original North of Broad RFP issued November 2017**

**4.3.14 Impact on GRTC Transfer Station**

A. The City has increasingly recognized the integral and vital role of transit in development and economic growth. The recent approval of the Pulse BRT is an acknowledgement of Richmond's commitment to transit and connectivity. In recognition of the important role of transit in the project, the Respondent shall include a replacement for the existing bus transfer facility. **The Respondent should provide for the inclusion of a bus transfer facility into the ground floor of a proposed building**, which will subject to detailed coordination with GRTC as facilitated by the City.

B. The bus transfer facility will require approximately 65,000 square feet with a ceiling height of, at least, 22 feet. While the City and GRTC will consider any proposed site for the bus transfer station, sites that provide the best connection to the Pulse BRT and Broad Street will be preferred.

**C. The GRTC will be responsible for developing the on-site improvements and already has over \$9 million in federal funding to support that development.**

D. The bus transfer facility will be built in accord with Federal Transit Administration (FTA) regulations. It will be the responsibility of GRTC to secure federal approval of the project and to minimize the regulatory impact of that project on the overall development.

(Emphasis added.)

9.) Who will administer the execution of the development agreement on behalf of the City?

**Legal Counsel (City Attorney's Office/Orrick) Response:**

The Chief Administrative Officer will execute, or sign, the Navy Hill Development Agreement on behalf of the City. However, we understand this question truly to ask who will administer the performance of the Navy Hill Development Agreement on behalf of the City. Ord. No. 2019-211, § 2 provides, "the Chief Administrative Officer, for and on behalf of the City of Richmond, be and is hereby authorized to execute such contracts, deeds, and other documents and give such approvals contemplated by the

November 21, 2019

**RESPONSES TO QUESTIONS/REQUESTS  
FROM NH ADVISORY COMMISSION CHAIR**

**Questions/Requests Sent via E-mail on November 12**

We have heard that the Parcel D construction may be financed independently from the rest of the proposed Navy Hill parcels. Can you please advise us if:

- The VCU-related development on Parcel D is financed separately from the rest of the NH projects and could proceed with or without the adoption of the proposed Navy Hill ordinances?

**NHDC RESPONSE:**

**The development of Block D is integrated in the Navy Hill project, specifically included in the Master Plan and Project Schedule attached to the Development Agreement as Exhibits L and J respectively. Block D, as the other private development Blocks, may be separately financed or as part of a multi-Block financing. VCU has been identified as a tenant for Block D, just as any other tenant in the development, and the fact that the tenant is identified means the development of this Block may occur earlier than the Project Schedule requires. The Block will be a tax generating development with a credit tenant, which tenant would otherwise be exempt from taxes as a state entity.**

**The question of whether this Block's development could occur with or without the adoption of the proposed Navy Hill ordinances has several considerations and implications.**

- 1. Any development of this site requires a resolution of the GRTC bus transfer center, which is currently located there. As part of its proposed agreement with the City, Navy Hill is working in collaboration with GRTC on a suitable solution for a new GRTC transfer center location which will make development of Block D possible.**
- 2. VCU wants to see the complete and coherent Navy Hill plan realized, as the certainty of the overall redevelopment is a critical factor in their program to expand west, into the Navy Hill redevelopment. The Navy Hill master plan provides a "known**

**development environment” for VCU’s own master planning efforts and allows for the recruitment of researchers and students who desire to live and work in a more stabilized environment.**

- 3. Parcels near VCU represent rational expansion possibilities for its campus, however the City wants/needs to increase its tax base, thus the build-to-suit / leaseback structure accomplishes both parties’ needs, therefore is an essential structuring piece.**
- 4. The infrastructure needs of the Navy Hill area are greater than the ability for one block’s development to solve. Due to the significant amount of infrastructure improvements required for the area to redevelop, the costs are spread over the entire redevelopment within the Navy Hill master plan.**
- 5. Developing only Block D, and not the overall project, the City and VCU would lose the opportunity to realize a replacement arena and the prospect for a much-needed convention center hotel and quality programming and renovation of the Blues armory (which would also be a part of VCU programs) would be foregone. The arena, convention center hotel and armory, and convention center itself work together in a powerfully synergistic manner to boost tourism and generate new revenue for the City.**

- The VCU-related development on Parcel D is taxable real property?

**NHDC RESPONSE:**

**Yes. The VCU-related development on Parcel D, as proposed, will turn tax-exempt land into improved taxable property. Note that the “Form of Deed” required for conveyances of the Private Development Parcels (Exhibit B of the Purchase and Sale Agreement) includes provisions ensuring that at all times following conveyance the properties will be subject to real estate taxes.**

- The City has planned or programmed funding to relocate the City uses on Parcel? If not, is there funding for such a relocation within the Navy Hill proposal?

**CITY RESPONSE:**

## **A Solution to the Problem of Rent, Schedule and Design Control**

A build-to-suit (BTS) project often puts the corporate real estate department in a challenging position. The project must conform to an approved budget, while also facing a very tight schedule with a series of milestones that must be met in a perfectly orchestrated fashion. To meet the Project Schedule, the project must move forward even before the building is designed or a rental rate is set. The sooner the tenant can bring its developer partner on board, the better the chances for success.

Rent is always a key concern. The tenant favors certainty and wants to know what its rent will be. But a developer will not agree to a fixed rent until all project costs have been determined. This cannot be done until the land is selected, the building has been designed and priced, and site improvement and infrastructure costs have been determined. Also, if the tenant insists on rent certainty, it will not be able to select its developer partner until the project is fully designed and priced so that multiple developers can bid based on a fixed rent.

Project design not only impacts the rent and the Project Schedule, it also raises the issue of design control. While the tenant has a notion of the desired project, the plans and specifications are likely very preliminary. Perhaps the site, which impacts building design, has not even been selected. The tenant feels it owns the project and can make design decisions as the project progresses. On the other hand, the developer partner will also feel that it owns the project and will expect design control. If the building is not "market standard," but is unique or high cost due to tenant's specialized design, the building will be less attractive for investors and future users.

Rent, schedule and design control create an inherent tension in a BTS lease. The tenant should not expect the developer to fix a rent for a building that is not yet designed, but the deal structure should assure the tenant that it will get a fair rent. The developer cannot expect the tenant to cede all influence over building design, but a tenant has to respect the developer's fundamental interest in the project design. If the developer is not selected until the building is designed and the project is priced, the desired schedule will not be achieved and the tenant will not have the assistance of its developer partner during the crucial design and pricing stages.

Use of the Rent Constant pricing approach to determine the initial annual rent relieves this inherent tension in a BTS lease. In this structure, the developer and tenant agree on a factor (Rent Constant or sometimes called a Lease Constant) to be multiplied by the total development cost of the project (Rental Base) to determine the initial annual rent. For example, if the Rent Constant is 9% and the Rental Base is \$10,000,000, then the initial rent would be \$900,000.

The developer will propose a Rent Constant based on multiple factors including credit of the tenant, current interest rates, geographic market, type of building, lease term, annual rent escalations, and special lease provisions such as early termination or expansion rights. If tenant credit is investment grade, the building is generic or market standard and in a good location, the Rent Constant will be lower. If the building is specialized, the lease term is short, or the tenant has early termination rights, the Rent Constant will be higher. For a tenant selecting a developer, the Rent Constant can be a point of competition among prospective developers. This approach also allows for earlier selection of the developer partner so that the tenant can get the benefit of the developer's expertise as soon as possible.

The Rental Base will include all hard and soft costs for the development of the project including land, site improvements, design, building construction, and construction financing. The Rental Base will also include a developer's fee and an amount for contingency. The amount of the developer's fee and the amount and use of contingency can also be points of competition among prospective developers.

The Rent Constant approach may seem risky to a tenant focused on a fixed rental rate. What if costs go up making the rent higher than expected? But the reality is that the developer will not accept cost risk unless the project is fully designed and the developer has received final construction pricing. The process of waiting for final design, final construction pricing, and then a final rent number could delay the project for months, making completion on schedule impossible. Also, once the developer fixes its rental rate, the tenant will no longer have the right to influence the design of the project. Finally, a fixed rent lease will create a more adversarial relationship between tenant and its developer partner as cost and design issues inevitably arise. A collaborative approach where the developer and the tenant work together to address pricing and design issues as early as possible is much preferred.

The Rent Constant approach yields multiple benefits to the tenant and the tenant need not accept unlimited rent risk. Rather, costs can be controlled by forcing developers to bid on the Rent Constant, their development fee and the budgeted contingency. The BTS documents should require that a competitive bidding process be used for each contractor in an "open book" approach, allowing both the tenant and developer to have some control over contractor selection and pricing. Once construction pricing is finally established, the risk of contractor default and construction completion can be shifted to the developer and the general contractor. The Rent Constant approach allows the tenant meaningful influence over building design. Finally, the tenant can select its developer partner before the building is designed and even before final site selection is made, so that the tenant benefits from the developer's expertise early, when it is most needed. Early selection of the developer helps the tenant achieve timely completion of the project.

While no single approach is right for all build-to-suit transactions, I encourage tenants to consider the Rent Constant approach because it gives them fair pricing, the ability to influence design and the best chance for on-time completion. It also allows for earlier developer selection, enabling better use of their developer's expertise and creates a more collaborative relationship with their developer partner.