

RESOLUTION 2021-02-04

A RESOLUTION OF THE DOWNTOWN INVESTMENT AUTHORITY (“DIA”) REVISING THE PERFORMANCE SCHEDULE CONTAINED IN EXHIBIT J OF THE REDEVELOPMENT AGREEMENT (“RDA”) BETWEEN THE CITY OF JACKSONVILLE (“CITY”), DIA, ELEMENTS DEVELOPMENT OF JACKSONVILLE, LLC (“ELEMENTS”), AND THE DISTRICT COMMUNITY DEVELOPMENT DISTRICT (“CDD”) DATED JULY 12, 2018 AND RELATED DOCUMENTS, INCLUDING BUT NOT LIMITED TO THE CRA INFRASTRUCTURE IMPROVEMENTS COSTS DISBURSEMENT AGREEMENT (“DISBURSEMENT AGREEMENT”) BETWEEN THE DIA, CDD AND ELEMENTS DATED DECEMBER 22, 2020 AND THE INTERLOCAL AGREEMENT (“INTERLOCAL AGREEMENT”) AMONG THE CITY, DIA AND THE CDD DATED DECEMBER 22, 2020, TO ESTABLISH REVISED DATES FOR EXECUTION OF EACH OF THE GENERAL CONTRACTS CONTEMPLATED FOR CONSTRUCTION OF THE CRA INFRASTRUCTURE IMPROVEMENTS, FOR COMMENCEMENT OF THE BULKHEAD PORTION AND REMAINING PORTIONS OF THE CRA INFRASTRUCTURE IMPROVEMENTS, AND SUCH OTHER SUBSEQUENT AND DEPENDENT REVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE EXECUTION OF THE CONSTRUCTION CONTRACT AND COMMENCEMENT OF CONSTRUCTION OF THE BULKHEAD AS QUICKLY AS POSSIBLE; AUTHORIZING THE CHIEF EXECUTIVE OFFICER OF THE DIA (“CEO”) TO EXECUTE ALL NECESSARY DOCUMENTS TO EVIDENCE SUCH EXTENSION OF THE PERFORMANCE SCHEDULES WITHIN THE RDA, DISBURSEMENT AGREEMENT AND INTERLOCAL AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the DIA and City Council approved the RDA, Disbursement Agreement, and Interlocal Agreement via DIA Resolution 2018-04-01 and Ordinance 2018-313, respectively; and

WHEREAS, the CDD recently closed on the bonds to fund construction of the CDD Infrastructure Improvements and CRA Infrastructure Improvements and in December 2020 Elements conveyed to the City the City Parcels for the Riverwalk, several waterfront parks and a marsh front park in accordance with the terms of the RDA; and

WHEREAS, Elements and the CDD have been diligently pursuing completing the design and permitting of the CDD Infrastructure Improvements and CRA Infrastructure Improvements including the bulkhead, Riverwalk, parks, roads and parking facilities; and

WHEREAS, the CDD and Elements are ready to begin construction of the bulkhead portion of the CRA Infrastructure Improvements and wish to execute a contract for construction of the bulkhead but have yet to finish final designs of the remaining portions of the CRA

Infrastructure Improvements and are thus unable to bid the remaining portions of the CRA Infrastructure Improvements at this time; and

WHEREAS, in order to begin work as quickly as possible the CDD has initiated the process to bid the bulkhead work separately; and

WHEREAS, after consultation with the Office of General Counsel, DIA has concluded that in order to allow commencement of construction on the bulkhead portion of the CRA Infrastructure Improvements, it will be necessary to seek City Council approval of an amendment to the RDA, Disbursement Agreement and/or Interlocal Agreement (“Amendment”) allowing for more than one General Contractor for construction of the CRA Infrastructure Improvements; and

WHEREAS, it is anticipated that the general contract for the bulkhead portion of the CRA Infrastructure Improvements can be executed by the end of May, or possibly sooner; and

WHEREAS, the Permit Approval Date is established in Item (h) of the Performance Schedule (as defined in the RDA) as the date by which the CDD shall (i) have obtained all permits needed for the construction of the Project; and (ii) have signed the contract for construction of the Project with a general contractor and is currently March 3, 2021; and

WHEREAS, the Commencement of Construction date is a Material Milestone established in Item (i) in the Performance Schedules of the RDA, Disbursement Agreement and Interlocal Agreement and is currently April 2, 2021; and

WHEREAS, in accordance with Section 3.2 of the RDA, the Permit Approval Date and Commencement of Construction milestone and other dates within the Performance Schedules can be extended by approval of the DIA Board; and

WHEREAS, all capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the RDA.

NOW THEREFORE BE IT RESOLVED, by the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The Revised Performance Schedule attached hereto as Exhibit A shall be substituted for the remainder of the performance milestones established in Exhibit J to the RDA and in the Disbursement Agreement and Interlocal Agreement.

Section 3. The DIA acknowledges that as of this date Elements and the CDD have satisfied the Revised Performance Schedule milestones prior hereto, as previously extended.

Section 4. This Resolution will utilize ____ days of the possible ____ day extension of the Performance Schedule authorized under Section 3.2 of the RDA with a balance of ____ days available by action of the DIA Board.

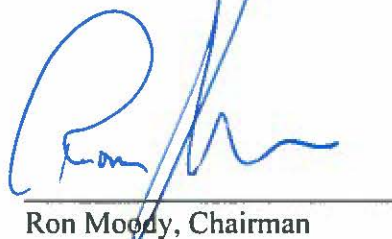
Section 5. The CEO is hereby authorized to execute such contracts and documents and otherwise take all necessary action in connection therewith to effectuate the purposes of this Resolution.

Section 6. This Resolution, 2021-02-04, shall become effective on the date it is signed by the Chair of the DIA Board.

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY





Ron Moody, Chairman

2/17/21

Date

VOTE: In Favor: 9 Opposed: 0 Abstained: 0

Exhibit A to Resolution 2021-02-04

**Exhibit J Performance Schedule
Revised PERFORMANCE SCHEDULE as of
February 17, 2021 (including prior extensions)**

(a) On or before the Effective Date, the Developer shall have entered into a fully executed DCSB Agreement in form and substance acceptable to the DIA and shall provide a copy thereof to the DIA. The DCSB Agreement shall provide that, in the event the Developer or CDD default under the DCSB Agreement, the DCSB Agreement at the option of the City may be collaterally assigned to the City.

(b) Within thirty (30) days from the Effective Date, the Developer shall have engaged a design, engineering and permitting team ("Design Team") and authorized that Design Team to proceed with the design and engineering plans and specifications for the Project and shall have provided the DIA with copies of the Contracts of engagements, evidence of the notice to proceed and schedule for production of the plans and specifications (the "Plans and Specifications"). Within sixty (60) days thereafter, and every thirty (30) days thereafter, the Design Team shall meet with and provide the Chief Engineer for the City (the "Chief Engineer") the Plans and Specifications produced during the prior thirty (30) days and all design and engineering of the CRA Infrastructure Improvements shall be subject to the reasonable approval of the Chief Engineer. This schedule may be reasonably modified by the Chief Engineer and the Design Team for better coordination and effectiveness of the review process.

(c) Within ninety (90) days from the Effective Date, the Developer shall have submitted the Preliminary Plat for the Project Parcel to the City;

(d) On or before October 1, 2020:

(i) Prior to December 31, 2018, the Developer shall have overseen, petitioned the City and caused the creation of the CDD pursuant to Chapter 190, Florida Statutes, for the purposes of causing the development and construction of the Project, and prior to December 31, 2020, the CDD shall have purchased the Design and Engineering Plans (as defined in the Disbursement Agreement) from the Developer; and

(ii) The Developer and/or the CDD shall have substantially completed the final design and engineering for the Project and the final plat for the Project Parcel (excluding the final design and engineering for the marina improvements, including the water taxi stop, transient boat docking facilities and kayak launch).

(e) Prior to December 31, 2020, the CDD shall have issued the CDD Bonds the proceeds of which shall be sufficient to fund the CDD Infrastructure Improvements and to satisfy reasonable capitalized interest and debt service reserves together with reasonable placement agent fees and other CDD bond industry standard issuance costs attendant to the issuance of the bonds.

(f) Prior to December 31, 2020, but after issuance of the CDD Bonds, the Closing on the City Parcels shall have occurred in accordance with this Agreement.

Exhibit A to Resolution 2021-02-04

(g) On or before December 31, 2020, the CDD shall have applied for all permits reasonably necessary for the commencement of construction of the Project, and the CDD shall provide to the DIA all permit documents and information required by the City under its standard permit application processes.

(h) On or before 60 days following the City Council Approval Date, or 30 days following the DIA's approval of the contract with the General Contractors for the bulkhead and parking lots respectively, whichever occurs first, (the "Permit Approval Date"):

- (i) The CDD shall have obtained all permits reasonably necessary for commencement of construction of portions of the CRA Infrastructure Improvements and CDD Infrastructure Improvements; and
- (ii) The CDD shall have signed contracts with General Contractors for construction of the bulkhead portion of the CRA Infrastructure Improvements and the contract for construction of the DCSB parking lot portion of the CDD Infrastructure Improvements;

(i) On or before 30 days following the Permit Approval Date, the CDD shall Commence Construction of the bulkhead portion of the CRA Infrastructure Improvements and the DCSB parking lot portion of the CDD Infrastructure Improvements (the "Initial Commencement of Construction Date") and provide written notice of the date thereof to the DIA.

(j) On or before 180 days following the City Council Approval Date, or 30 days following DIA's approval of the contract with the General Contractor for the remaining CRA Infrastructure, whichever occurs first, the CDD shall have signed a contract with a General Contractor for the remaining CRA Infrastructure Improvements, including the marsh boardwalk and excluding the bulkhead (the "Upland CRA Infrastructure Improvements") and with a general contractor for the remaining CDD Infrastructure Improvements, with the exception of the marina improvements, including the water taxi stop, transient boat docking facilities and kayak launch.

(k) On or before 210 days following the City Council Approval Date, the CDD shall Commence Construction of the Upland CRA Infrastructure Improvements and the remainder of the CDD Infrastructure Improvements and provide written notice of the date thereof to the DIA.

(l) The CDD shall Complete Construction of the CRA Infrastructure Improvements no later than thirty-six (36) months after the Initial Commencement of Construction Date of the CRA Infrastructure Improvements.

(m) The CDD shall Complete Construction of the CDD Infrastructure Improvements no later than forty-eight (48) months after the Initial Commencement of Construction Date of the CDD Infrastructure Improvements.

In the event of any conflict between this Performance Schedule and the Performance Schedule in the Disbursement Agreement, this Performance Schedule shall control.