

**BROOKSTOWN DEVELOPMENT PARTNERS, LLC  
104 Cambridge Plaza Drive, Winston-Salem NC 27104**

September 21, 2009

**CONFIDENTIAL**

City of Winston-Salem  
Attention: Lee D. Garrity, City Manager  
101 North Main Street, Suite 170  
Winston-Salem, NC 27101

**RE: The office building (the "Building") proposed to be constructed on the parcel presently owned by Brookstown Development Partners, LLC ("BDP") designated as Revised Lot 3 containing 1.056 acres, more or less, as shown on the Revised Plat of Subdivision at the site of Downtown Winston-Salem Baseball Stadium as recorded in Plat Book 54, Page 182-84 of the Forsyth County Public Registry ("Lot 3").**

Dear Mr. Garrity:

The purpose of this letter agreement is to confirm the agreement between BDP and the City of Winston-Salem (the "City") regarding the payment to the City of a portion of any "Distributable Cash" (as defined below) derived from the Building and Lot 3. Reference is made to the Amended and Restated Incentives Agreement dated as of the date of this letter agreement among the City, BDP, Sports Menagerie Corp., Sports Menagerie, LLC and Sports Menagerie Stadium LLC (the "Incentives Agreement"). In further consideration of the mutual benefits described in the Incentives Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BDP and the City agree as follows:

1. The following terms shall have the meanings ascribed below:

(a) "Affiliate" means, with respect to BDP: (i) any Investor; (ii) any Person that directly or indirectly controls or is under common control with BDP or any Investor; or (iii) any Person who has a familial relationship (by blood or marriage) with any Person described in (i) or (ii) above. As used herein, "Person" means any individual, corporation, firm, enterprise, partnership, trust, incorporated or unincorporated association, joint venture, joint stock company, limited liability company or any other entity of any kind, or any government or political subdivision or any agency, department or instrumentality thereof.

(b) “Appraiser” means an independent MAI (or its then equivalent qualification) real estate appraiser with at least ten (10) years’ commercial real estate appraisal experience in the Winston-Salem, North Carolina market selected by BDP and approved by the City.

(c) “Appraised Value” means the fair market value of the Property as determined by mutual agreement of the City and BDP; provided; if such agreement cannot be reached within thirty (30) days of the closing of an Affiliate Sale, the Appraised Value shall be such fair market value as determined by an Appraiser, the cost of which shall be shared equally by the City and BDP.

(d) “Capital” means (i) the amount of cash and the fair market value of any other property contributed by an Investor to BDP or an Affiliate (whether in the form of an equity capital contribution, loan, advance or otherwise) that is directly related to the ownership, improvement, operation, maintenance, development, leasing or sale of the Property and (ii) the amount of all indebtedness for borrowed money incurred by BDP from a financial institution or other non-Affiliate that is (A) directly related to the ownership, improvement, operation, maintenance, development, leasing or sale of the Property, and (B) personally guaranteed or endorsed by, or pursuant to which the lender has recourse against, one or more Investors or their Affiliates. The initial Capital as of the date of this letter agreement is \$2,568,138.94 (the “Initial Capital”), which was invested as follows: (i) \$183,670.00 on July 9, 2008 to Calloway Johnson Moore & West, P.A. for engineering and architecture fees and expenses; (ii) \$334,468.94 on November 25, 2008 to Calloway Johnson Moore & West, P.A. for engineering and architecture fees and expenses; (iii) \$1,050,000.00 on March 6, 2009 to Samet Corp. for construction costs and materials for the Building foundation; (iv) \$1,000,000 principal amount of the \$10,000,000 principal amount of indebtedness owed by BDP to Regions Bank on the date hereof for land purchase.

(e) “Distributable Cash” means:

- (i) In the case of a Third Party Sale, the actual amount of net cash available for distribution to the Investors as a result of the Third Party Sale after payment of all transaction expenses and retirement of the \$1,000,000 of indebtedness to Regions Bank included in the Initial Capital (including the full release of all liens of Regions Bank on the Property in accordance with Section 4 of the Regions Loan Agreement) and any other indebtedness subsequently incurred by BDP to replace or refinance such indebtedness (but only insofar as it directly related to ownership, improvement, development, leasing or sale of the Property);

- (ii) In the case of an Affiliate Sale, the amount of net cash that would be available for distribution to the Investors as a result of the Affiliate Sale if (A) as of the date of the Affiliate Sale, the Property were sold for cash at its Appraised Value; and (B) the deemed gross proceeds derived from clause (A) were reduced by actual bona fide transaction expenses incurred in the Affiliate Sale and the retirement of the \$1,000,000 of indebtedness to Regions Bank included in the Initial Capital (including the full release of all liens of Regions Bank on the Property in accordance with Section 4 of the Regions Loan Agreement) and any other indebtedness subsequently incurred to replace or refinance such indebtedness (but only insofar as it directly related to ownership, improvement, development, leasing or sale of the Property); and
  - (iii) In the case of net income from operation of the Property, the actual amount of cash available for distribution by BDP to its Investors and proposed to be distributed by BDP to its Investors and directly derived from BDP's ownership of the Property, including net rental income and other operating revenues received by BDP for the use or occupation of the Building.
- (f) "Investors" mean the members of BDP.
- (g) "Preferred Return" means a ten percent (10%) cumulative, non-compounded return on each Investor's Capital from the time that such Capital is contributed to BDP by the Investor or an Affiliate or loaned to BDP by a non-Affiliated lender, to the date upon which such Capital is returned to the Investor or repaid so as to release the Investor from any liability with respect thereto.
- (h) "Property" means Lot 3 and any improvements located thereon (including, if applicable, the Building).
- (i) "Regions Loan Agreement" means the Loan Modification Agreement dated as of the date hereof between BDP as Borrower and Regions Bank as Lender, together with all "Loan Documents" referred to therein that evidence or secure the loan and other obligations of BDP covered thereby, including all modifications, amendments and renewals thereof.
- (j) "Residual Shares" means 25% to the City and 75% to BDP (or the Investors).
- (k) "Sale" means the sale, conveyance, contribution or other transfer of all or substantially all of the Property. A Sale to a third party (i.e., not an

Affiliate) is referred to as a "Third Party Sale" while a Sale to an Affiliate is referred to as an "Affiliate Sale."

(l) "Term" means the earlier of (i) the closing of the first Sale; or (b) the expiration of the Incentives Agreement.

2. All Distributable Cash shall be allocated and distributed as follows:

(a) Distributable Cash From Operations. Other than Distributable Cash arising or deemed arising from a Sale, Distributable Cash shall be distributed on a cumulative basis as follows:

- (i) First, to the Investors in an amount not to exceed any unpaid portion of the Preferred Return; and
- (ii) Second, to the City and BDP (or the Investors) in proportion to the Residual Shares.

(b) Distributable Cash From a Sale. Any Distributable Cash arising from a Sale shall be distributed as follows:

- (i) First, to the Investors in an amount not to exceed any unpaid portion of the Preferred Return;
- (ii) Second, to the Investors in an amount equal to the remaining unreturned Capital at the time of the distribution; and
- (iii) Third, to the City and BDP (or Investors) in proportion to the Residual Shares.

3. Within 120 days after the end of each fiscal year, and within 30 days of the closing of a Sale, BDP shall cause Daniel Professional Group CPA or another independent certified accounting firm reasonably acceptable to the City to prepare and deliver to the City financial information setting forth in reasonable detail calculations of Capital, Preferred Return, gross and net Sale proceeds, Distributable Cash and Residual Shares for the most recent and immediately prior periods and on a cumulative basis from.

4. To confirm BDP's compliance with the terms of this letter agreement, City may, at all reasonable times upon reasonable prior notice during usual business hours, audit, examine and make copies or extracts of or from the books of account of BDP with respect to the Property. Such rights may be exercised through any agent or employee of City or by independent certified public accountants designated by City. If City's audit and examination of BDP's books and records indicate that BDP has underpaid the City any amount due hereunder by more than


five percent (5%), then, in addition to its other remedies hereunder, the cost of any such audit and examination shall be paid by BDP on demand by City.

5. The rights and obligations of BDP under this letter agreement may not be assigned by BDP except with the prior written approval of the City. If BDP completes a Sale, the Term will expire and BDP will have no further obligations hereunder to the City upon completion of the distribution of Distributable Cash from such Sale in accordance with this letter agreement.
6. This letter agreement may be executed in multiple counterparts which, when assembled, shall constitute one original. An executed counterpart transmitted by fax shall be deemed an original.
7. Nothing contained in this letter agreement shall be deemed or construed to create a partnership or joint venture between or among the City and BDP or its Investors, or to cause the City or BDP and its Investors to be responsible in any way for the debts or obligations of each other or those of any other party.
8. By executing this letter agreement, BDP and the City covenant and agree not to record this letter agreement or any memorandum summarizing the terms hereof in the Forsyth County public real estate records.
9. Nothing contained in this letter agreement shall be deemed or construed to create any obligation on the part of BDP to develop the Property within any particular time period or in any particular manner or to construct any Building or other improvement upon Lot 3 at any time.
10. By executing this letter agreement, BDP and the City acknowledge and agree that the obligations of BDP hereunder are subject to BDP's full performance of all obligations under the Regions Loan Agreement and that no Sale of the Property may occur unless and until BDP complies with all the terms of the Regions Loan Agreement applicable to such Sale (including, without limitation, the release provisions of Section 4 of the Regions Loan Agreement and the release of all liens of Regions Bank on the Property in conjunction with such Sale). BDP and the City also acknowledge and agree that the obligations of BDP hereunder to pay or distribute any Distributable Cash to the City are subject to BDP obtaining from Regions Bank all consents and approvals required under, and otherwise fully performing all the terms and conditions of, the Regions Loan Agreement.

If the foregoing correctly sets forth our agreement, please so indicate by signing below and returning a signed copy of this letter agreement to me for our files.


Sincerely,

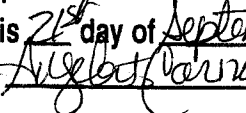
BROOKSTOWN DEVELOPMENT  
PARTNERS, LLC

By:   
Billy D. Prim, Manager

ACCEPTED AND AGREED:

CITY OF WINSTON-SALEM

By:   
Name: Lee D. Garrity  
Title: City Manager

Approved as to form and legality.  
This 21<sup>st</sup> day of September 2007  
By:  Attorney