



City of Petersburg Virginia

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City Council Special Meeting

December 23, 2024
Petersburg Library
201 W. Washington Street
Petersburg, VA 23803
12:00 PM

City Council

Samuel Parham, Mayor – Ward 3
Darrin Hill, Vice Mayor – Ward 2
Marlow Jones, Councilor – Ward 1
Charles Cuthbert, Jr., Councilor – Ward 4
W. Howard Myers, Councilor – Ward 5
Annette Smith-Lee, Councilor – Ward 6
Arnold Westbrook, Jr., Councilor – Ward 7

City Administration

John "March" Altman, Jr. - City Manager
Anthony Williams - City Attorney
Tangi R. Hill - City Clerk

1. Roll Call

2. Closed Session

The purpose of this meeting is to convene in the closed session pursuant to:

- a. §2.2-3711(A)(3) of the Code of Virginia for the Purpose of Discussion or Consideration of the Acquisition of Real Property for a Public Purpose and the Disposition of Publicly Held Real Property Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body, Specifically Including but Not Limited to the Acquisition and Disposition of Real Property

3. New Business

- a. Schedule a Public Hearing for the Consideration of an Ordinance to Authorize the City Manager to Execute an Option Agreement and Convey Property Upon Satisfaction of Terms - First Reading

4. Adjournment

AN ORDINANCE TO AUTHORIZE THE CITY MANAGER TO EXECUTE AN OPTION AGREEMENT AND CONVEY PROPERTY UPON SATISFACTION OF TERMS

WHEREAS, the City is the fee simple owner of approximately 179 acres of land and improvements upon the property known as 2233 Halifax Road, Petersburg, VA – Parcel ID No.: 076030800; and

WHEREAS, TWG Petersburg, LLC has expressed an interest in obtaining an Option to Purchase said property from the City for the purpose of constructing a high efficiency, stacked data center or commercially similar or better development; and

WHEREAS, TWG has proposed the terms for such acquisition in the attached draft Purchase Option Agreement (**Exhibit A**) which includes terms stating that as a condition precedent to any closing pursuant to the agreement, the purchaser must first draft and obtain formal approval of Council of a Development Agreement for the data center addressing key concerns to the satisfaction and at the sole discretion of City Council which include but are not limited to noise emissions; adequate buffer zones; and water usage; and

WHEREAS, §15.2-1800 of the Code of Virginia requires that in order for the City to convey an interest property owned by the locality, it must adopt an Ordinance after first holding an duly noticed public hearing; and

WHEREAS, prior to adoption of this Ordinance, Council complied with §15.2-1800 of the Code of Virginia after publishing proper Notice in accordance with the requirements of the Code of Virginia; and

WHEREAS, City Council believes that authorizing the City Manager and City Attorney to execute the Purchase Option Agreement on behalf of the City and effectuate the sale of the property upon TWG's election to exercise the option after first satisfying all requirements of the Purchase Option Agreement is in the best interests of the City of Petersburg.

NO therefore be it ORDAINED that Council does hereby authorize the City Manager and City Attorney to execute the Purchase Option Agreement on behalf of the City and effectuate the sale of the property upon TWG's election to exercise the option after TWG has satisfied all requirements of the Purchase Option Agreement including but not limited to obtaining formal approval by Council of a Development Agreement meeting all requirements described in the Purchase Option Agreement.

PURCHASE OPTION AGREEMENT

This PURCHASE OPTION AGREEMENT (“**Option Agreement**”) is made as of December __, 2024 (“**Option Effective Date**”) by and between **CITY OF PETERSBURG, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (“**Seller**”), and **TWG PETERSBURG LLC**, a Virginia limited liability company, or assigns (“**Buyer**”).

RECITALS

A. Seller is the fee simple owner approximately 179 acres of land and any improvements commonly known as 2233 Halifax Road, Petersburg, VA, Parcel Identification Number 076030800, a description of which is attached hereto as **Exhibit A** and which shall be updated upon to include the legal description in accordance with the Title Commitment (as defined below) (collectively, the “**Property**”).

B. Seller desires to grant Buyer the option to buy, and the Buyer desires to secure such option to buy, the Property, for the purposes of constructing a high efficiency, stacked data center or commercially similar or better development, on the terms and conditions set forth herein (the “**Option to Purchase**”).

~~C. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Contribution Agreement.~~

NOW, THEREFORE, for good and valuable consideration paid to the Seller as described herein, the receipt and sufficiency of which are hereby acknowledged, Seller hereby grants to Buyer an exclusive option to purchase the Property. The parties hereto hereby agree as follows:

1. OPTION TERM AND PRICE. The Option to Purchase period commences as of the date of this Option Agreement and expires six (6) months following the Option Effective Date, provided that by notices delivered to Seller in advance of expiration, Buyer may extend the term for up to six one (16) additional consecutive periods/period of thirty-six (306) days/months each. If Buyer exercises its Option to Purchase, the purchase price to be paid by Buyer at closing is Eight Hundred Sixty-~~Thousand~~Three Thousand – Four Hundred and 00/100Dollars (\$863,400.00) (“**Purchase Price**”). Notwithstanding the term of this Option Agreement, Buyer and Seller agree that this Option Agreement shall not merge, terminate, or otherwise expire in connection with exercise of the Option, but upon such exercise, this Option Agreement shall remain in effect through closing on the sale of the Property, unless earlier terminated.

2. NOTICE TO EXERCISE OPTION. To exercise the Option to Purchase, prior to expiration of this Option Agreement, Buyer must deliver written notice of exercise to Seller. Such notice shall specify (a) the closing date, and (b) any title objections.

OPTION CONDITION: As a condition precedent to any closing pursuant to the exercise of any option contemplated under this Agreement, Buyer must present and receive formal approval of City Council of a Development Agreement for the Data Center which addresses to the sole discretion of Council concerns including, but not limited to: noise emissions; adequate buffer zones, and water usage.

3. **OPTION CONSIDERATION.** As consideration for this Option to Purchase, the Buyer shall pay the Seller five thousand dollars (\$5,000.00) (“**Option Payment**”) within twenty (20) business days following Option Effective Date. Thereafter, ~~any each~~ extension, as authorized pursuant to this Option Agreement, that the Buyer may choose to exercise, shall require an additional \$5,000.00 Option Payment to the Seller. The Option Payment(s) shall be nonrefundable (except as set forth in this paragraph below) and shall be credited to the purchase price at closing if the Buyer timely exercises the Option to Purchase. Notwithstanding the foregoing, if this Option Agreement terminates as a result of Seller’s default, the Option Payment shall be returned to Buyer with statutory interest applied.

4. **RIGHT OF ENTRY.** Commencing on the Option Effective Date and continuing until the earlier of (i) execution of the Contract, or (ii) termination of the Option Agreement, Buyer and its contractors, representatives, investors, employees, consultants, vendors, auditors and agents shall have the non-exclusive right and license to enter the Property to conduct inspection, due diligence reviews, and activities related thereto, provided that Buyer shall indemnify and hold harmless Seller from and against damages resulting from such access and inspection by Buyer. Promptly Following the Option Effective Date, Buyer may obtain a title commitment for the Property (“**Title Commitment**”) from a title company selected by Buyer (“**Title Company**”).

5. **CLOSING.** Closing shall occur on the date specified in Buyer’s exercise notice and shall be facilitated by the Title Company. On the closing date, Buyer shall deliver the Purchase Price (less the amount of the Option Payment) and the closing statement to the Title Company. On the closing date, Seller shall deliver to the Title Company a general warranty deed for recording in each Property jurisdiction, owner’s affidavit, certificate of non-foreign status, and any additional documents requested by the Title Company or reasonably necessary to consummate the transaction. At closing, Seller shall pay all “grantor’s taxes” in connection with the transfer of the Property and recordation of the deed, and Buyer shall pay all recordation and transfer taxes other than the “grantor’s taxes”.

6. **CONDITIONS TO CLOSING.** After exercising its Option to Purchase, Buyer’s obligation to close on this transaction is conditioned upon (a) there having been no damage to the Property or condemnation proceeding brought or threatened, and no condition, event or circumstance has occurred since the Option Effective Date not caused by Buyer that materially adversely affects the condition or value of the Property, (b) Seller has performed all of its obligations under this Option Agreement and all Seller representations remain true and correct (c) the Title Company is irrevocably committed to issuing title policy insuring marketable title to the Property with no monetary liens or monetary encumbrances thereon and (d) the Property has been rezoned from Agricultural (A) to M1.

7. **REPRESENTATIONS.** Each party represents and warrants to the other party that: (i) this Option Agreement has been duly executed and delivered by such party, and constitutes the valid and binding obligation of such party, enforceable against it in accordance with the terms hereof; and (ii) the execution, delivery and performance of this Option Agreement does not violate or breach the terms of any agreement to which it is a party or by which it or its property may be bound.