

Prepared by:
Ivy Memorial Baptist Church
2200 Coliseum Drive
Hampton, VA 23666
After recording return to:
Office of the City Attorney
22 Lincoln Street
Hampton, Va. 23669
(bnb)

LRSN: 7001695

PROFFER AGREEMENT

THIS PROFFER AGREEMENT (“Agreement”) made this ____ day of _____, 20 __, by and between Ivy Memorial Baptist Church (the “Grantor”); and THE CITY OF HAMPTON, a municipal corporation of the Commonwealth of Virginia (the “Grantee”), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, Va. 23669.

RECITALS

- A. Ivy Memorial Baptist Church is the owner of a certain parcel of property located in the City of Hampton, herein known as LRSN Number(s) 7001695, and more fully described on “Exhibit A” (the “Property”).
- B. Grantor has initiated a conditional amendment to the zoning map of the City of Hampton, Virginia, by petition addressed to the Grantee so as to change one of the conditions for the zoning classification of the Property.
- C. Grantor has requested approval of this Agreement.
- D. Grantee’s policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.

- E. Grantor desires to offer the City of Hampton certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- F. The conditions outlined in this Agreement have been proffered by Grantor and allowed and accepted by Grantee as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of Grantee.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of Hampton, (the "City") of this Agreement, Grantor agrees that it will meet and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the City, these Proffers shall thereupon become null and void. Grantor, its heirs, successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from Grantee or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Agreement shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Grantor, its

heirs successors and assigns, grantees and other successors in interest or title to the Property; namely:

CONDITIONS

- A) A conceptual site plan illustrating the proposed development shall be reviewed and approved by the Director of Planning prior to any formal site plan submission to the City of Hampton Site Plan Review Committee. Specific items to be approved by the Director of Planning include but shall not be limited to: site access and circulation; location of parking areas and buildings; the location and magnitude of landscaped areas and buffers; privacy fence; the treatment of all public street frontage; and signage.

Once the conceptual site plan has been approved by the Director of Planning, the final site plan shall be substantially in conformance with the approved conceptual site plan;

- B) All building elevations shall be reviewed and approved by the Director of Planning prior to receiving a building permit. All proposed building elevations should be submitted for review by the Director of Planning in conjunction with the conceptual site plan;
- C) Mobile home parks, massage parlors, gas stations and commercial parking facilities shall not be permitted upon any portion of the property; and
- D) If developed for other than residential use, either a fence 5 ft. high with evergreen landscaping or a continuous evergreen screen capable of attaining 5 ft.-6 ft. height shall be placed along the easterly property line. This shall be subject to design review and approval by the Director of Community Development before a

building permit can be issued. Landscaping shall adhere to the standard City requirements.

- E) It is understood that all phases of the proposed project shall comply with all ordinances of the City of Hampton.
- F) Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval.
- G) All references hereinabove to zoning districts and to regulations applicable thereto, refer to the City Zoning Ordinance of the City of Hampton, in force as of the date the conditional rezoning amendment is approved by the Grantee.
- H) The Grantor covenants and agrees that (1) the Zoning Administrator of the City of Hampton, Virginia, shall be vested with all necessary authority on behalf of the governing body of the City of Hampton, Virginia, to administer and enforce the foregoing conditions and restrictions specified in this Agreement, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings; (2) the failure to meet all conditions shall constitute cause to deny the issuance of any of the required building or

occupancy permits as may be appropriate; and (3) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Department of Community Development and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia and indexed in the name of the Grantor and Grantee.

WITNESS the following signatures:

Grantor:

Ivy Memorial Baptist Church

By: William P. Wolfley Trustee

William P. Wolfley, Trustee

STATE OF VIRGINIA
City of Hampton, to-wit:

I, Richina White, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that William P Wolfley, whose name is signed to the foregoing instrument as (title) Trustee of Fry Memorial Baptist Church, a Virginia (type of entity) _____, has sworn to, subscribed, and acknowledged the same before me in the City and State aforesaid, this 19 day of August, 2018 on behalf of said _____. He/she is personally known to me or has produced _____ as identification.

Richina White
Notary Public

My commission expires: 5/31/21
Registration No. 7273855

Richina W. White
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7273855
My Commission Expires: 5/31/21

By: Michael L Walker Trustee

Michael L. Walker, Trustee

STATE OF VIRGINIA
City of Hampton, to-wit:

I, Richina White, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Michael L Walker, whose name is signed to the foregoing instrument as (title) Trustee of Trinity Memorial Baptist Church Virginia (type of entity) _____, has sworn to, subscribed, and acknowledged the same before me in the City and State aforesaid, this 19 day of August, 2018 on behalf of said _____. He/she is personally known to me or has produced _____ as identification.

Richina White
Notary Public

My commission expires: 5/31/21
Registration No. 7273855

Richina W. White
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7273855
My Commission Expires: 5/31/21

By: James B. Thomas, Trustee

James B. Thomas, Trustee

STATE OF VIRGINIA
City of Hampton, to-wit:

I, Richina White, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that James B Thomas, whose name is signed to the foregoing instrument as (title) Trustee of Fvy Memorial Baptist Church Virginia (type of entity) _____, has sworn to, subscribed, and acknowledged the same before me in the City and State aforesaid, this 19 day of August, 2018 on behalf of said _____. He/she is personally known to me or has produced _____ as identification.

Richina White

Notary Public

My commission expires: 5/31/21
Registration No. 7273855

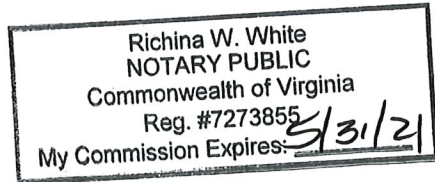


Exhibit A
Legal Description

ALL that certain parcel of land located in the City of Hampton, Virginia, on the Easterly side of Coliseum Drive, show and designated as "Parcel a-2" AS SHOWN ON THAT CERTAIN PLAT ENTITLED. "PLAT OF DOPWO, INC., HAMPTON VIRGINIA", dated January 12, 1994, made by Baldwin & Gregg, Engineers-Surveyors-Planners, a copy of which is attached hereto and made a part hereof.

TOGETHER with all the improvements thereon and appurtenances thereto and including a perpetual and non-exclusive easement and right of way for ingress and egress for all types of pedestrian and vehicular traffic and for the installation and maintenance of all types of public utilities across, over, upon and under that certain strip or parcel of land designated and described on said plat as "Signature Way (a private street)", which easement shall be appurtenant to Parcel a-2 and shall run with the land.

BEING a part of the same real estate conveyed to Dopwo, Inc., by deed from Dominion Park Associates, a Tennessee general partnership, dated June 15, 1989, recorded July 13, 1989, in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia, in Deed Book 0961, at page 0103.