

Prepared by: Jones, Blechman, Woltz & Kelly, P.C.  
701 Town Center Dr., Suite 800  
Newport News, VA 23606  
Attn: Raymond H. Suttle, Jr.

Return to: Office of the City Attorney (BNB)  
22 Lincoln Street  
Hampton, VA 23669

LSRN: 3003904

### **AMENDMENT TO PROFFER AGREEMENT**

THIS AMENDMENT TO PROFFER AGREEMENT (“Amendment”) is made this 15<sup>th</sup> day of February, 2021, by and between **E-COMMERCE CENTER OF HAMPTON, LLC**, a Virginia limited liability company, as successor to TODD SHOPPING CENTER, L.L.C. (index as a Grantor); and **THE CITY OF HAMPTON, VIRGINIA**, a municipal corporation of the Commonwealth of Virginia (index as a Grantee), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, VA 23669.

### **RECITALS**

- A. As part of the rezoning of the real property located at the corner of Todds Lane and Aberdeen Road in Hampton, Virginia, designated as 1708 Todds Lane (LSRN 3003904), as further described on Exhibit A (the “Property”), a Proffer Agreement dated April 6, 2015 was recorded in the office of the Clerk of the Circuit Court of the City of Hampton, Virginia as Instrument #150010174, a copy of which is attached hereto and made a part hereof as Exhibit B (the “Proffer Agreement”).
- B. Grantor desires to amend the Proffer Agreement to allow and permit additional retail, sales, services, and office uses on the Property and to offer the City certain conditions for the enhancement of the community and provide for the highest quality and orderly development of the Property.

C. The conditions outlined in this Amendment have been proffered by Grantor and allowed and accepted by the City as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions and those contained in the Proffer Agreement 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 the City.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of this Amendment and the Proffer Agreement, Grantor agrees that it will meet and comply with all of the following conditions in operating the Property. In the event the requested change of zoning classification is not granted by the City, this Amendment shall thereupon become null and void. Grantor, its successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from the City or its governing body and without any element or compulsion or quid pro quo for zoning, re-zoning, site plan, building permit or subdivision approval, make the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenant and agree that this declaration and the further terms of this Amendment and the Proffer 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 Grantor, its successors and assigns, grantees and other successors in interest or title to the Property.

#### **CONDITIONS**

1. Paragraph 1 of the Proffer Agreement is amended, modified and restated as follows:

The only permitted use of the Property shall be a mixture of self-storage facility, retail and office, together with all associated uses. The e-commerce center shall incorporate all three uses. Under no circumstances shall the self-storage exceed 75% of the total building square footage.

The Retail Sales, Services, and Office uses shall be limited to the following:

- Barber/beauty shop
- Bicycle sales and repair
- Clothing maker, custom
- Computer equipment repair
- Day Spa
- Liquor Store
- Loan Office
- Office, general
- Office, medical
- Print shop/private postal service, max. 3000 sq. ft.
- Retail sales, general
- Second hand store
- Storage facility
- Upholstery shop

The Recreational uses shall be limited to the following:

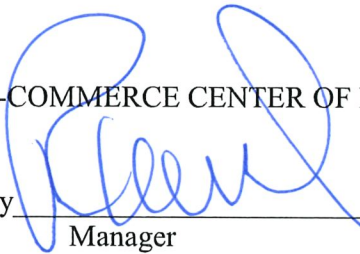
- Billiard hall

The Industrial uses shall be limited to the following:

- Small artisan shop

2. Except as amended, modified or restated herein, the remaining terms and provisions of the Proffer Agreement attached as Exhibit B, dated April 6, 2015 and recorded in the office of the Clerk of the Circuit Court of the City of Hampton, Virginia as Instrument #150010174, shall remain in full force and effect.

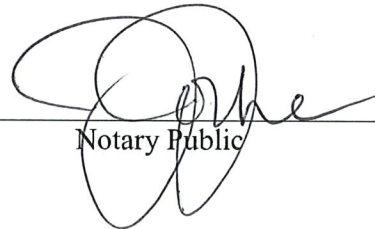
WITNESS the following signatures:

E-COMMERCE CENTER OF HAMPTON, LLC  
By  \_\_\_\_\_  
Manager

STATE OF VIRGINIA  
CITY OF NEWPORT NEWS, to-wit:

The foregoing was acknowledged before me this 27 day of ~~February~~ <sup>April</sup>, 2021 by Robert L. Freeman, Jr., Manager, E-Commerce Center of Hampton, LLC.

My commission expires: 10-31-23  
Registration Number: 7057163

 \_\_\_\_\_  
Notary Public



641807

**EXHIBIT A**

**Legal Description**

All that certain lot, piece or parcel of land with the improvements thereon and the appurtenances thereunto belonging, lying and being in the City of Hampton, Virginia and being identified as Parcel III-A on that certain plat titled "BOUNDARY LINE ADJUSTMENT PLAT OF PARCELS I & II (DEED BOOK 455 AT PAGE 744 PLAT), HAMPTON, VIRGINIA", prepared by Timmons Group, dated April 5, 2016 and recorded at Misc. Plat Book 4, Page 163 among the land records of the Circuit Court Clerk of the City of Hampton, Virginia.

TOGETHER WITH a 25 foot Ingress/Egress Easement for the benefit of Parcel III-A, as shown on the plat referenced above and conveyed to E-Commerce Center of Hampton, LLC by Deed recorded in the Clerk's office of the Circuit court for the City of Hampton, Virginia as Instrument No. 160010866.

AND FURTHER TOGETHER WITH the Proposed 10' Drainage Easement for the benefit of Parcel III-A conveyed in Deed of Easement dated August 24, 2016 and recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia as Instrument No. 160010867.