

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 10/13/2016

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

Amendment to Development Agreement between the City of Huntsville and IMI Huntsville, LLC

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute an Amendment to Development Agreement between the City of Huntsville and IMI Huntsville, LLC, for the Bridge Street Development.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

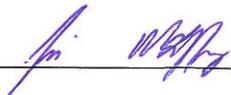
Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: _____



Date: 10/4/2016

RESOLUTION NO. 16-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a Development Agreement by and between the City of Huntsville and IMI Huntsville, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Amendment to Development Agreement, adopted and approved on September 27, 2012, between the City of Huntsville and IMI Huntsville, LLC," consisting of two (2) pages and the date of October 13, 2016, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the ___th day of October, 2016.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the ___th day of October, 2016.

Mayor of the City of
Huntsville, Alabama

STATE OF ALABAMA)
)
COUNTY OF MADISON)

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

FOR AND IN CONSIDERATION of (a) the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, this day in hand paid to CITY OF HUNTSVILLE, a municipal corporation under the laws of the State of Alabama ("City") by IMI HUNTSVILLE LLC, a Delaware limited liability company ("Developer"), (b) the mutual agreements, covenants, provisions and terms set forth herein and (c) other good and valuable consideration, the receipt and sufficiency of all of which is hereby expressly acknowledged by City and by Developer, and intending to be legally bound hereby, City and Developer hereby:

A. Amend and modify that certain Development Agreement by and between City and Developer dated on and as of September 27, 2012 and approved by City pursuant to Resolution No. 12-849 (the "Development Agreement") for the development of a new phase of real property owned by Developer known as Bridge Street Towne Centre, Huntsville, Madison County, Alabama, by deleting subparagraph (a) of paragraph 4.3 on page 11 thereof.

B. Agree and covenant that the Development Agreement, as amended and modified hereby, be, and the same is hereby, ratified and confirmed in all respects.

IN WITNESS WHEREOF, City and Developer have caused these presents to be executed as of the _____ day of _____, 2016.

Attest: _____
Kenneth Benion
as Clerk-Treasurer of
City of Huntsville,
a municipal corporation
within the State of Alabama

CITY OF HUNTSVILLE,
a municipal corporation
within the State of Alabama

By: _____
Tommy Battle,
as its Mayor

[SEAL]

IMI HUNTSVILLE LLC,
a Delaware limited liability company

By: Institutional Mall Investors, LLC,
a Delaware limited liability company
as its Sole Member

By: Miller Capital Advisory, Inc.
an Illinois corporation
as its Manager

By: 
Name: VICE PRESIDENT, DEVELOPMENT
Its: ANDREW WILSON

STATE OF ALABAMA)
)
COUNTY OF MADISON)

I, _____, a Notary Public in and for said County in said State, hereby certify that Tommy Battle and Kenneth Benion, whose names as Mayor and Clerk-Treasurer, respectively, of the City of Huntsville, a municipal corporation within the State of Alabama, are signed to the foregoing First Amendment to Development Agreement, and who are known to me, acknowledged before me on this day that, being informed of the contents of the foregoing First Amendment to Development Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Huntsville, a municipal corporation within the State of Alabama, as of the day the same bears date.

GIVEN under my hand and official seal on this the ____ day of _____, A.D., 2016.

My Commission Expires:

Notary Public
State of Alabama
County of Madison [SEAL]

STATE OF Illinois)
)
COUNTY OF COOK)

I, Susan Aburahmeh, a Notary Public in and for said County in said State, hereby certify that Andrew Wilson, whose name as VP of Development of Miller Capital Advisory, Inc., an Illinois corporation, acting in its capacity as Manager of Institutional Mall Investors LLC, a Delaware limited liability company, acting in its capacity as the Sole Member of IMI Huntsville LLC, a Delaware limited liability company, is signed to the foregoing First Amendment to Development Agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing First Amendment to Development Agreement, he, as such officer and with full authority, executed the same voluntarily for and as the act of the said Miller Capital Advisory, Inc., an Illinois corporation, acting in its capacity as Manager of Institutional Mall Investors LLC, a Delaware limited liability company, acting in its capacity as the Sole Member of IMI Huntsville LLC, a Delaware limited liability company, as of the day the same bears date.

GIVEN UNDER MY HAND and official seal on this the 2 day of August, A.D., 2016.

My Commission Expires:
05/16/2020

Susan Aburahmeh
Notary Public
State of Illinois
County of COOK [SEAL]

