



BOARD OF CONTROL
DOCUMENT NO.
B 09-771

DEVELOPMENT AGREEMENT

This Agreement is entered into this 19th day of November, 2009, by and between the CITY OF YOUNGSTOWN, OHIO (hereinafter called "City") and U.S. CAMPUS SUITES, LLC, an Ohio limited liability company (hereinafter called the "Developer").

WITNESSETH:

WHEREAS, the Developer seeks to build a new student housing facility adjacent to the campus of Youngstown State University on property described more fully in the attached Exhibit A; and

WHEREAS, the City of Youngstown has encouraged the Developer to construct the new student housing facility within the City; and

WHEREAS, in support of this project, the City has agreed to assist the Developer in establishing this new housing facility.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties agree as follows:

Section 1 - City's Obligations

1.1. Grant: The City agrees to provide to Developer, a One-Million Two Hundred Thousand (\$1,200,000.00) Grant for purposes of assisting in certain site preparation. The Grant shall be used by the Developer for installation of a water line and water-related, a waste water line and water water-related, and any associated site remediation and grading as well as any improvements, enhancements, and/or upgrades to the water system that may be necessary for Developer to complete the project as planned.

Section 2 - Developer Obligations

2.1. Building: In conjunction with Developer's construction of a new student housing facility, Developer shall properly and timely install all water lines and waste water lines that will be required to service the newly constructed facility, as well as all collateral improvements required for completion of the same.

2.2. Grant Fund Compliance: Developer shall comply with all rules and regulations regarding the receipt of any Grant funds provided herein. Failure to comply with the rules and regulations of any Grant funds received may require the Developer to reimburse or refund Grant monies received to the City.

2.3. Conformance With Law: All plans, specifications and work by the Developer shall be in conformity with all applicable federal, state and local laws and regulations.

Section 3 - Miscellaneous

3.1. Modification and Waiver: No modification or waiver of any provision of this Agreement and no consent by City to any departure therefrom by Developer shall be effective unless such modification or waiver shall be in writing and signed by the Board of Control of the City and Developer, and the same shall be then effective only for the period, on the conditions and for the specific instances and purposes specified in such writing.

3.2. Ohio Law: This Agreement shall be construed in accordance with and governed by the laws of the State of Ohio.

3.3. Notices: All notices, requests, demands or other communications provided for herein shall be in writing and shall be deemed to have been given when sent by registered mail or certified mail, return receipt requested, addressed, as the case may be to:

As to City:

Mayor
City of Youngstown
City Hall
26 South Phelps Street
Youngstown, OH 44503

With a copy to:

Law Director
City of Youngstown
City Hall
26 South Phelps Street
Youngstown, OH 44503


As to Developer:

U.S. CAMPUS SUTES. LLC
7886 Via Amilio
Poland, OH 44514

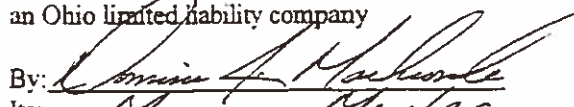
With a copy to:

Stephen R. Garea, Esq.
8571 Foxwood Court, Suite B
Youngstown, OH 44514

IN WITNESS WHEREOF, the Developer and City have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.


D. L. H. A. T. R. O. N. Y.

U.S. CAMPUS SUTES. LLC
an Ohio limited liability company

By: 
Its: Managing Member


James R. Dodge

THE CITY OF YOUNGSTOWN, OHIO
By Its Board of Control

ABSENT

Jay Williams, Mayor


Iris Gugliucello, Esq., Law Director


David Bozanich, Finance Director

APPROVED AS TO FORM:


Iris Gugliucello, Esq., Law Director

EXHIBIT 1.1



BOARD OF CONTROL
DOCUMENT NO.
B 04-770

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT is made the 19th day of November, 2009 by and between the CITY OF YOUNGSTOWN, OHIO ("Seller") and U.S. CAMPUS SUITES, LLC, an Ohio limited liability company, with its principal place of business located at 7886 Via Attilio, Poland, OH 44514 ("Purchaser").

WITNESSETH:

In consideration of the mutual promises, covenants and other good and valuable consideration, the receipt of which is acknowledged, the parties hereby agree as follows:

1. **Property to be Conveyed:** Seller hereby agrees to sell and Buyer hereby agrees to buy the real property located at 145 Madison Ave., Youngstown, OH and known as Youngstown Fire Station No. 7, consisting of a brick building and approximately 0.126 acres of real property all as more fully described in the attached Exhibit A (hereinafter "Property").

The Property shall include the land, all appurtenant rights, privileges, and easements thereto, and all buildings, structures and attachments.

2. **Lease Agreement:** Contemporaneous with the purchase and sale of the Property, the parties shall enter a Lease Agreement wherein Purchaser leases the Property to Seller for a period of ten (10) years for use by Seller as a fire station.

3. **Purchase Price:** Purchaser agrees to pay Seller the sum of One Million Dollars (\$1,000,000.00) payable at Closing.

4. **Deed:** Seller shall furnish a quit claim deed conveying to Purchaser marketable title to the Property free and clear of all liens and encumbrances whatsoever, except: (a) restrictions, agreements and/or reservations of record, and all easements granted in the plat records, (b) zoning restrictions, if any; and (c) taxes and assessments, both general and special.

5. **Title Guaranty:** Seller shall furnish to Purchaser at Seller's expense a title guaranty, in the amount of the purchase price, as evidence that title to the Property has been conveyed to Purchaser as provided herein. If title to all or part of the Property is found defective and said defects cannot be remedied by Seller within forty-five (45) days after written notice thereof, then, at Purchaser's option, this Agreement shall become null and void. Purchaser may, at its option, pay an additional premium for a title insurance policy.

6. **Taxes and Utilities:** Seller shall pay all taxes and penalties, if any, which are a lien on the premises for any completed tax period prior to the date of delivery of the deed. Taxes, utilities, and installments of special assessments for any period during which the deed is delivered shall be prorated using the last available tax duplicate. In prorating, Seller shall pay the prorated amount of such charges up to and including the date of transfer. Seller shall either pay their prorated share in cash to Purchaser or shall deduct the same from the purchase price at the time of closing.

7. **Closing Date and Expenses:** The closing date for delivery of the deed and payment of the purchase price shall be at a time mutually agreed upon by Purchaser and Seller, but in any event, within ninety (90) days of the date this Agreement is executed by the parties. Seller agrees to pay the cost of title examination and title commitment, title guaranty in the amount of the purchase price, conveyance fee or transfer tax, if any, cost of deed preparation and one-half (1/2) of any escrow fees. Purchaser agrees to pay the cost of recording of the deed along with one-half (1/2) of the escrow fees. Each party shall be responsible for their own counsel fees.

Should a new description of the Property be required for compliance with the Mahoning County conveyance standards, the same shall be provided by Seller at Seller's expense.

8. **Possession:** Seller shall deliver possession of the Property to Purchaser immediately after the closing.

9. **Due Diligence and Hazardous Substances.**

A. Seller represents and warrants that to the best knowledge and belief of Seller no hazardous or toxic or dangerous waste substance or material has been discharged, disbursed, released, stored, treated, generated, disposed of, or allowed to escape on, under, or from the Property without compliance with environmental rules, regulations, and laws.

B. Purchaser, its agents and representatives, shall have the right at any time prior to Closing to enter upon the Premises to inspect, examine, test and survey the Premises and to make any investigations of the environmental, financial or physical condition relating to the Premises that Purchaser deems necessary or appropriate. Purchaser may not conduct any drilling, soil borings or other invasive tests without Seller's prior written consent which Seller shall not unreasonably withhold. Purchaser shall indemnify, protect, defend and hold Seller harmless from and against all damages, claims, actions, liabilities, liens and expenses suffered or incurred by Seller related to or arising out of Purchaser's entry onto the Property or Purchaser's actions in conducting any of the foregoing inspections and tests.

C. Purchaser shall have a period of forty-five (45) days after the date of this Agreement ("Due Diligence Period") in which to complete, review and approve the results of Purchaser's investigation of the environmental and physical condition of the Premises. If Purchaser determines that the environmental, financial or physical conditions relating to the

Property are not acceptable, the Purchaser shall have the right to terminate this Agreement by delivering written notice thereof to Seller on or before the expiration of the Due Diligence Period. Purchase shall provide a copy of all environmental or physical condition reports prepared regarding the Property to Seller with the written notice of termination. Upon such termination and thereafter, neither party shall have any further obligation or liability hereunder to the other party except as otherwise expressly provided herein.

10. **Representations and Warranties of Seller.** Seller represents and warrants to Purchaser as follows:

- A. Seller has full authority to transfer the Property, the Property is free and clear from all liens or claims of any party, and Seller is not in default under any law or regulation or any order of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality affecting the Property, and there are no claims, actions or suits or proceedings threatened, instituted or filed against or affecting the Property.
- B. Exhibit A sets forth an accurate legal description of the Property. No improvements on the Property encroach on the property of any other person or entity, and no improvements on any other property encroach upon the Property. The conveyance to Purchaser by Seller will include the right to use all easements and rights as may be necessary for access to and utilization of the Property.
- C. All assessments now a lien are shown on the Treasurer's tax duplicate, and no improvements, site or area, have been installed by any public authority, nor has notification been received of any future improvements, the cost of which are to be assessed against the Property.
- D. Seller has no knowledge of any intent to take any part of the Property by eminent domain.
- E. Purchaser is aware of the environmental conditions of the Property and accepts the property "AS IS", without any warranty from Seller as to the environmental conditions.

F. Seller is not a "foreign person" as defined by §1445 of the Internal Revenue Code.

G. There are no leases, written or oral, in connection with the Property, and no person has or claims to have any leasehold interest or rights of tenancy in the Property.

11. Contingencies. This agreement shall be contingent upon the following:

A. Seller's ability to convey title to the Property as required by this agreement.

B. Delivery of the Property to Purchaser unoccupied.

C. Performance or satisfaction by Seller of all terms, conditions and warranties contained in this agreement.

D. Completion to Purchaser's satisfaction of Purchaser's Due Diligence investigation.

In the event any of the contingencies contained herein are not met, Purchaser shall have the right to void this agreement and in such event Seller shall return to Purchaser all sums paid and Purchaser shall not be responsible to Seller for any losses or damages as a result thereof.

12. This contract shall be governed by the laws of the State of Ohio.

13. This contract is not assignable by either party without the written consent of all other parties.

14. All warranties, representations and covenants herein contained shall survive the delivery of the deed executed and delivered in performance hereof, and if the deed and this Agreement are inconsistent, the provisions of this Agreement shall control.

15. Any change or modification of this Agreement must be in writing and signed by all of the parties.

WITNESSES:

D. Linda Proveste
D. LINDA THORNTON

PURCHASER:
U.S. CAMPUS SUITES, LLC

By: *[Signature]*
Its: *Managing Member*

WITNESSES:

Jammi Reddy

SELLER:
CITY OF YOUNGSTOWN
BY ITS BOARD OF CONTROL
ABSENT

Jay Williams, Mayor
Iris Gugliucello
Iris Gugliucello, Esq., Law Director
David Bozarich
David Bozarich, Finance Director

APPROVED AS TO FORM:

Iris Gugliucello
Iris Gugliucello, Esq., Law Director