



**KENNESAW DOWNTOWN DEVELOPMENT AUTHORITY
SPECIAL CALLED MEETING AGENDA
APRIL 1, 2022
COUNCIL CHAMBERS
8:00 A.M.**

I. Call to Order

II. Approval of Minutes

III. Announcements/Public Comment

IV. Financials

V. Old Business

VI. New Business

- a. First Amendment to Purchase & Sale Agreement – 2570 Cobb Parkway
- b. BurgerFi Lease Extension Request Letter
- c. Downtown Branding

VII. Executive Session – Land, Legal, Personnel

- a. Pursuant to the provisions of O.C.G.A. 50-14-3, the KDDA could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney as provided under O.C.G.A. 50-14-2(1); and/or personnel matters as provided under O.C.G.A. 50-14-3 (4) and/or real estate matters as provided under O.C.G.A. 50-14-3(6).

VIII. Board Comments

IX. Economic Development Director Comments

X. Adjourn

NOTICE: Any person who desires to appeal any decision from this meeting will need a record of the proceedings, and for the purpose may need to insure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based. The Agenda is designed to make more efficient use of the KDDA's time. It is not designed to curtail discussion or input. If you need special accommodations to attend or participate in our meetings, please contact City Hall at least 24 hours in advance of the specific meeting you are planning to attend.

The next scheduled meeting of the Kennesaw Downtown Development Authority will be 7:30 a.m. on April 12, 2022

FIRST AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS FIRST AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT ("First Amendment"), made this ____ day of _____, 2022 by and between DOWNTOWN KENNESAW DEVELOPMENT AUTHORITY (herein referred to as the "Seller") and KENNESAW CITY STORAGE, LLC, a Georgia limited liability company (together with its assigns, herein referred to as the "Purchaser").

RECITALS

A. Seller and Blue Tiger Properties, LLC (originally as "Purchaser") entered into that certain Real Estate Purchase and Sale Agreement dated June 16, 2021 (the "PSA") regarding the purchase and sale of approximately 2.67 acres, commonly known as 2570 North Cobb Parkway, Kennesaw, Georgia, located in Land Lots 166 and 167 of the 20th District, 2nd Section, Cobb County, Georgia ("Property"). All terms with initial capital letter that are not defined herein will the meaning ascribed to them in the PSA.

B. The interest of Blue Tiger Properties, LLC as "Purchaser" under the PSA has been assigned to Kennesaw City Storage, LLC, and Kennesaw City Storage, LLC has assumed all obligation of Purchaser under the PSA.

C. Purchaser has requested to delay the Closing Date by no more than sixty (60) days and in consideration thereof has agreed (i) that all previously escrowed Earnest Money in the amount of \$200,000.00 shall be released to Seller upon execution and delivery of this First Amendment by Seller and applied as described below and (ii) in addition to the Purchase Price, to pay to Seller at Closing a prorated portion of interest accruing on the Seller's bond as described below.

D. Seller and Purchaser have agreed to extend the Closing Date of the PSA as set forth below.

NOW, THEREFORE, for and in consideration of Ten and No/100ths Dollars (\$10.00), the mutual promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto agree as follows:

1. INSPECTION PERIOD: All parties agree that the Inspection Period has passed and all rights to terminate the PSA pursuant to Section 5B of the PSA have expired.

2. ESCROWED FUNDS AND PER DIEM INTEREST. Purchaser has requested to delay Closing Date by no more than sixty (60) days and in consideration thereof has agreed that all the Earnest Money of \$200,000.00 shall become nonrefundable (other than due to a default by Seller or failure of a condition precedent as described in Section 8 of the PSA) and payable to Seller by

Escrow Agent within one (1) business days after full execution and delivery of this First Amendment and delivery of wire transfer instructions to Escrow Agent. The Earnest Money delivered to Seller shall be applied to the Purchase Price at Closing. Additionally, in the event the Closing occurs on or after May 23, 2022, in addition to the Purchase Price, Purchaser shall pay to Seller a prorated portion of interest accruing on the Seller's bond which is currently accruing at a rate of \$6,768.00 monthly (\$225.60 per day). Said interest payment accrual shall begin effective May 23, 2022. By way of illustration, if the Closing Date is June 1, 2022, Purchaser will owe an additional \$2,030.04 (\$225.60 per day multiplied by 9 days).

3. **CLOSING DATE.** Section 6.A. of the PSA, is hereby amended by adding the following as the last sentence thereof:

Purchaser and Seller agree that the outside Closing Date of May 23, 2022 is hereby extended to July 22, 2022.

4. **RATIFICATION.** Except as modified hereby, the PSA is hereby ratified and confirmed and shall remain in full force and effect.

5. **COUNTERPARTS.** This First Amendment may be executed in any number of identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one agreement, but in making proof of this First Amendment, it shall not be necessary to produce or account for more than one such counterpart. Delivery of an executed counterpart of this First Amendment by facsimile or pdf shall have the same binding effect as delivery of an executed original.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed, under seal, as of the day and year indicated opposite their names below.

"PURCHASER"

KENNESAW CITY STORAGE, LLC

By: _____ (SEAL)

Name: _____

Title: Manager

"SELLER"

KENNESAW DOWNTOWN DEVELOPMENT
AUTHORITY

By: _____(SEAL)

Name: Mark Allen

Title: Chairman