



Request for City Council Committee Action from the Department of Community Planning & Economic Development and the Department of Finance & Property Services

Date: September 9, 2014
To: Council Member Lisa Goodman, Chair, Community Development and Regulatory Services Committee
Subject: Downtown East Block 1 Development Rights Sale Terms

Recommendation: 1) Conduct a public hearing on the sale of the development rights for the Block 1 Liner Parcel and Air Rights Plane (as those terms are defined below), 2) Approve the term sheet with Ryan Companies US, Inc. ("Ryan"), and 3) Authorize appropriate City officials to execute a purchase option development contract with Ryan (or an affiliate) and the Minnesota Sports Facilities Authority ("MSFA") and other agreements consistent with the term sheet

Previous Directives: March 28, 2014: The City designated Ryan as the developer of the Block 1 liner and air rights. December 13, 2013: The City approved a term sheet with Ryan and the MSFA, authorized execution of agreements, passed resolutions authorizing issuance of taxable general obligation bonds and the creation of a development district and adopted an ordinance relating to the issuance of bonds for the broader Downtown East project. July 19, 2013: The City authorized staff to negotiate term sheets and/or agreements with Ryan and the MSFA consistent with the general conceptual framework.

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Approved by: Charles T. Lutz, Deputy Director CPED	_____
Kevin Carpenter, City Finance Officer	_____
Presenter in Committee: Miles Mercer	

Financial Impact:
Subject to final documentation and agreements, Ryan is offering to pay the following to the City for the option to purchase the Liner Parcel and Air Rights Plane, 1) an initial option payment of \$300,000, and annual extensions payments of \$60,000, and 2) a purchase price at closing of at least \$2 million (including any initial option and extension payments) with chance of upward adjustment, and 3) an additional phased payment of \$1 million upon the construction and leasing of a residential tower. The City's Finance & Property Services Department has projected that the Ryan Companies project would generate approximately \$27.6 million in property taxes to the City over 30 years.

Community Impact:
Neighborhood Notification: March 17, 2014 and February 17, 2014 at Mill District Neighborhood Association meetings and March 6, 2014 and February 6, 2014 at Downtown Minneapolis Neighborhood Association meetings, a presentation of the responses to the Request for Proposals. January 16, 2014 and May 15, 2014 Downtown East project

briefings to joint meetings of Mill District Neighborhood Association, East Downtown Council, Downtown Minneapolis Neighborhood Association, and Elliot Park Neighborhood, Inc.

City Goals: Living well, Great Places

Comprehensive Plan: Block 1 is guided for mixed use. On June 9, 2014, the City Planning Commission found the sale of the Block 1 Liner Parcel and Air Rights Plane as consistent with the comprehensive plan.

Zoning Code: Block 1 is zoned B4N Downtown Neighborhood zoning and in the Downtown Parking Overlay District.

Background:

Block 1 is located at 728 South 4th Street, the block bounded by 3rd and 4th Streets and Chicago and Park Avenues (see attached area map). Ryan's mixed-use Downtown East project is located on the blocks to the west and the MSFA's Multi-Purpose Stadium project is to the east. The MSFA currently owns Block 1 and retained Ryan to design and build a six-story, 1,610-space parking ramp on the block. Ryan plans to start construction of the ramp this fall and complete the ramp by the end of 2015 to meet current contractual obligations.

The configuration of the ramp on the block is such that an approximately 18,000 square foot parcel of land will exist on the south side of the ramp (the "Liner Parcel"). This Liner Parcel, combined with the possibility of building additional structure in the air rights above the sixth floor of the ramp (the "Air Rights Plane"), will provide a site for potential development (see attached conceptual site plan).

In the Development Agreement for the broader Downtown East project (executed February 10, 2014), the MSFA granted the City the right to develop this site and any resulting sale proceeds. The Development Agreement conditions that the development cannot adversely affect ramp access, operations, or completion schedule and that the MSFA must approve any changes to the design of the ramp to accommodate the development. Further, the MSFA agreed to cooperate in the subdivision of Block 1 to create the Liner Parcel and Air Rights Plane and to convey fee title of them directly to the developer selected by the City. At no point will the City hold fee title to the property.

The City issued a Request for Proposals on January 6, 2014. The City received two proposals, and in March 2014 the City Council designated Ryan as the developer. Since that time, the City and Ryan have been refining the project, coordinating with the MSFA on the impacts of a development on the ramp, and negotiating the terms of the sale of the development rights.

The project has evolved over the past months. One change has been that a hotel is no longer part of the building program. Ryan and the potential hotel operator were not able to make the project economics work successfully. Another change has been a reduction in the purchase price that Ryan is able to pay for the property. As time has elapsed and Ryan got farther into the cost estimation of the project, Ryan could no longer support the purchase price it offered in its response to the RFP, \$5.6 million. See the attached letter from Ryan for more explanation of the factors that led to this reduction. Despite these changes, staff believes it is still in the City's best interest to proceed with the revised project proposal in order to create the most likely scenario for a significant development to occur sooner rather than later.

Terms of Sale:

See the attached term sheet for the sale. The following are key points:

Ryan plans to build a residential tower in partnership with Magellan Development Group LLC. Magellan, based out of Chicago, is currently completing its first building in Minneapolis, LPM Apartments in the Loring Park neighborhood. The 25-35 story tower would be located in the Liner Parcel. See the attached letter from Magellan and Ryan

outlining their commitment to the project. In the Air Rights Plane, Ryan would build a privately-owned seventh level containing approximately 200 stalls to the ramp to provide parking for residents and an eighth level open-air amenity deck.

Ryan, the City, and the MSFA will enter into a purchase option development contract that would give Ryan until December 31, 2015 to finalize its project and close on the transfer of property. Upon execution of the purchase option development contract, Ryan would pay a \$300,000 option price to the City, expected this fall. When the deal closes, Ryan would pay the City the balance of a minimum \$2 million purchase price with the chance for upward adjustment based on the scale of the project. In addition, Ryan would make additional payments to the City totaling \$1 million plus interest once the leasing of the residential tower project reaches 70 percent. (See the attached term sheet for more details.) These combined payments are in line with an appraisal that found the market value of the property to be \$3 million.

If Ryan has not closed on a deal by December 31, 2015, it could extend its option period in one-year increments by paying \$60,000 to the City for each year. Ryan would have a total of seven potential one-year extensions, which, if fully exercised, would take the option period out to December 31, 2022. The initial option payment and all option extension payments actually paid would count as a credit against the ultimate purchase price. If there is no purchase by Ryan during the option period, the City would retain those payments.

Ryan is making and paying for modifications to the ramp that will accommodate a development. These modifications, estimated to cost from \$1.3-\$1.6 million, consist of redesigning and moving the lobby of the ramp, providing structural reinforcement to bear the load of an extra level of parking or potential building structure, increasing the capacity of the block's storm water system, and adjusting the green screening to the ramp exterior. Ryan already has incurred design costs for these modifications over the past few months and will pay for the design and construction costs in the future. A key reason why Ryan is willing to make these investments in the ramp and thus increase the chance in general of realizing a development is because of the length of its option period. If the residential tower project does not close, extending its purchase option gives Ryan the chance to develop something else on the site and re-coup its investment in the ramp modifications. Ryan would have the right to build a different type of project, for example an office tower up to 20 stories, a hotel, or some other liner-only residential or commercial development.

Project Benefits

The residential tower project offers several benefits to the public, including:

1. Grows the City by bringing tower-scale residential density to downtown in a location that has excellent transit access immediately adjacent to the Downtown East light rail transit station where the Blue and Green Lines converge.
2. Hundreds of residents will help to bring activity and vibrancy to downtown.
3. A building will line the south face of a parking ramp.
4. Generates positive fiscal impacts for the City and other levels of government, including projected property taxes of \$27.6 million to the City, \$18.0 million to Hennepin County, and \$15.8 million to the Minneapolis School District over 30 years.

Recommendation

Staff recommends that the City Council:

1. Approve the attached term sheet with Ryan Companies US, Inc.
2. Authorize appropriate City officials to execute a purchase option development contract with Ryan (or an affiliate) and MSFA and other agreements consistent with the term sheet.

Term Sheet

Between the City of Minneapolis and Ryan Companies US, Inc.
For the Downtown East Block 1 Development Rights Project

1. **Property:** The development parcel or parcels to be created by vertical and horizontal subdivision of the Air Rights Plane and Liner Parcel on Block 1 in Downtown East to facilitate separate ownership and financing of various elements of the Minimum Improvements.
2. **Developer:** Ryan Companies US, Inc. or an affiliated entity (“Developer”). Subject to prior written approval by the City, Developer may assign development rights for one or more elements of the Minimum Improvements to one or more assignees with demonstrated experience and adequate financial capacity to undertake the project, provided the assignee assumes and agrees to be bound by applicable Developer obligations under the Redevelopment Contract.
3. **Minimum Improvements:** Developer and the City each desire to maximize the development that may be feasibly completed on the Property. Except as provided below, the Minimum Improvements will include a 25-35 story residential tower with an amenity deck and an additional level of parking constructed on the 7th level of the Block 1 Parking Ramp containing approximately 200 parking spaces (the “Residential Tower”). If Developer determines that the Residential Tower improvements are financially infeasible or have an unacceptable (or unapprovable) impact on the Block 1 Parking Ramp, then Developer will maintain an option to purchase and construct either an office tower of up to 20 stories, a full service or limited service hotel, or another residential or commercial liner-parcel building as Minimum Improvements. In all cases, Developer will make good faith efforts to include a significant amount of ground floor retail/restaurant space.
4. **Purchase Option:** Developer shall have an option to acquire the Property for construction of the Minimum Improvements until December 31, 2015 (the “Option Period”), subject to payment of the Option Price and performance of the Option Requirements listed below. To exercise the Purchase Option, Developer shall provide 60 day’s prior written notice to the City.
5. **Option Price:** Developer shall pay City an Option Price of \$300,000 upon execution of the purchase option development contract. If Developer exercises the Purchase Option during the Option Period, the Option Price will be applied to the Purchase Price.
6. **Option Requirements:** Developer shall fund and construct the following parking ramp improvements, estimated to cost between approximately \$1.3 million to \$1.6 million, including:
 - a. Redesign of the ramp lobby to the southeast corner of the block
 - b. Relocation of ramp lobby, sloped flooring, soil export
 - c. Structural upgrades to provide for possible expansion of 7th floor parking and amenity deck
 - d. Redesign exterior façade to add green screen to comply with City requirements
 - e. Adjust Grid E columns to support residential or commercial on liner
 - f. Increase capacity in storm-water system
 - g. Adjust Grid D columns to support up to 20 story office structure
7. **Option Extensions:** Developer may obtain annual extensions of the Option Period by payment of annual Extension Payments as follows:

- a. \$60,000 by December 31, 2015 to extend the Option Period through December 31, 2016
- b. \$60,000 by December 31, 2016 to extend the Option Period through December 31, 2017
- c. \$60,000 by December 31, 2017 to extend the Option Period through December 31, 2018
- d. \$60,000 by December 31, 2018 to extend the Option Period through December 31, 2019
- e. \$60,000 by December 31, 2019 to extend the Option Period through December 31, 2020
- f. \$60,000 by December 31, 2020 to extend the Option Period through December 31, 2021
- g. \$60,000 by December 31, 2021 to extend the Option Period through December 31, 2022

If Developer exercises the extended Purchase Option, the Option Price and any Extension Payments made by Developer will be applied to the Purchase Price. If not, the City will retain the Option Price and any Extension Payments.

8. Purchase Price: The minimum Purchase Price for the Property is \$2.0 million. If Developer constructs something other than the Residential Tower, this amount will be adjusted upward based upon the development on the Property as follows:
 - a. Office tower: Subject to upward adjustment if the ratio of \$10/sf results in a price greater than \$2.0 million (e.g. 325,000 sf building x \$10/sf=\$3.25 million)
 - b. Hotel: Subject to upward adjustment if the ratio of \$15,000/unit results in a price greater than \$2.0 million (e.g. 150-unit building x \$15,000/unit = \$2.25 million)
 - c. Residential Building on Liner Parcel only: Subject to upward adjustment if the ratio of \$15,000/unit results in a price greater than \$2.0 million

The Purchase Price is due to the City on the Closing Date.

9. Future Participation: If Developer constructs the Residential Tower, the City will receive additional payments from Developer which will total \$1.0 million. The five additional payments will be paid in the amount of \$200,000 each and will be paid on a quarterly basis commencing when 70% of the residential units are leased. Developer will pay interest payments or comparable stipulated payments on the \$1.0 million at a 4.25% annual interest rate commencing once the residential tower achieves a certificate of occupancy. Any unpaid proceeds payments will automatically accelerate and be paid to the City in the event of a sale or refinance of the project. Developer will provide suitable security for this Developer obligation, e.g. i) a lien on the Property subject to acceptable subordination requirements and/or ii) a corporate guarantee from Ryan Companies US, Inc. and/or Magellan Development Group, LLC.
10. Closing Date – After subdivision of Block 1 and prior to the start of construction of the Minimum Improvements, which shall be no later than December 31, 2015, unless Developer has extended the Option Period as provided above, in which case the Closing Date will be within 60 days after written notice from Developer that it intends to exercise the Purchase Option, but no later than the expiration date of the applicable extended Option Period. Developer shall satisfy standard conditions precedent to closing.

Construction Start Date – no later than three months following Closing Date subject to Force Majeure

Completion Date – no later than 24 months after Closing Date subject to Force Majeure

11. Fundraising: Developer will use best efforts to raise substantial donations for the Downtown East Commons, in addition to any funds donated by current or future owners or tenants of property located on the city blocks immediately adjacent to the Commons.
12. Property and Environmental Conditions: Property sold “as-is”. Developer may request City sponsorship of grant applications to outside funding sources (i.e., State of Minnesota DEED; Metropolitan Council; Hennepin County) to apply for available grants for any required environmental remediation or other extraordinary costs. The City shall have no other obligation in this regard, beyond consideration of Developer’s grant applications.
13. Article 13 Compliance: Developer shall also be responsible for compliance with the obligations of the “City or the City-selected developer” under Article 13 of the Development Agreement for the Ryan Downtown East project, including, but not limited to, any deposit of funds into escrow or provision of other acceptable security for the design and construction work necessary to modify the ramp to accommodate the Minimum Improvements.
14. Other Requirements: The conveyance of property will be subject to other standard City contracting requirements, including but not limited to construction and financing plan approvals prior to commencement of construction and transfer and encumbrance limitations until completion.
15. MSFA Participation: In the DTE Development Agreement, MSFA has granted City development rights for the Property and agreed to cooperate with the City and City-selected developer in the use of those rights. In furtherance of that agreement, the City has asked MSFA to enter into the above-described purchase option development contract with City and Developer by October 1, 2014, and to specifically approve the following:
 - a. Waive the April 10, 2014 deadline in the DTE Development Agreement to make design changes to Block 1 ramp and accept ramp modifications through change order and/or through design process approvals to accommodate the Minimum Improvements, so long as the modifications have no impact on number or functionality of spaces or substantial completion date and access is not obstructed;
 - b. In cooperation with Developer, agree to the form and content of a reciprocal easement and operating agreement (REOA), which will be effective against the Property after the Closing Date and provide appropriate easements for approximately 200 parking stalls and an amenity deck on a new privately-owned 7th level of the Block 1 ramp, including unrestricted ingress/egress during Stadium events;
 - c. Approve the column modifications to the ramp to accommodate a potential office tower, the impact of which is shorter parking stalls (12”) for 18 stalls to accommodate larger column size (3 per level; levels 1-6);
 - d. Grant a storm water easement for the benefit of the Property for use in a shared system, subject to execution of the REOA; and
 - e. Approve the ramp design/construction schedule.

MSFA must also cooperate in subdivision of the block, obtain release of the Property from state bond-financed property declaration and deliver the deed at closing.