

Committee-of-the-Whole Agenda

6:00 p.m.

Tuesday, October 15, 2013

2014 Budget Work Session

Work Session Agenda Items

1. Introduction (Lew Steinbrecher, City Administrator)
2. Overview (Kathy Carr, Finance Director)
3. Council Review of Proposed Budget Document by Fund
4. Reconcile Hit/Wish List
5. Approval of 2013 Special Service Area Property Tax Levies
6. Approval of the 2014 Budget
7. Executive Session
8. Other

Agenda Items

- 1. Approval of Term Sheet from Three Corners Development Inc.** (Ray Forsythe, Planning & Development Director)
- 2. Other**

Explanation

1. Approval of Term Sheet from Three Corners Development Inc. (Ray Forsythe, Planning & Development Director)

Explanation: Three Corners Development Inc. has submitted a Term Sheet outlining its request for economic assistance from the City to build Phase I of Riverbend Commons. The Developer will construct a mixed use project consisting of a 107,990 square foot student housing facility that will be known as the Mills at Riverbend Commons and a 20,087 retail use in the same building. There will be 240 beds in the student housing facility consisting of approximately 15 two-bed studio units, 45 two bed/two bedroom units, and 30 four bed/four bedroom units.

The retail portion is anticipated to include such uses as food, lifestyle, fitness and healthcare. The site is located just east of downtown Moline on a 15.5 acre site at the intersection of River Drive and 29th Street that is adjacent to the Western Illinois University-Quad Cities campus. Developer is requesting that the City make a \$4 million contribution of capital, to be drawn down for construction costs for all TIF eligible expenses first and then for general construction costs, to fill a financial gap and make the project feasible. Upon closing, the Developer will purchase the five easternmost acres for \$1.7 million. As part of the Term Sheet, Developer agrees to provide the City with schematic plans for Phase 2A of this development by June 30, 2014. The Developer will also make every good faith effort to develop all future phases. The Developer will agree not to request additional municipal incentives for future phases until at which time the \$4 million is fully repaid to the City through increased property and sales taxes and other miscellaneous revenues. Developer agreed also to defer its \$500,000.00 development fee for 18 months or until Phase II construction begins and to ensure that the property remains taxable. Until a Certificate of Completion is issued, the City will have a subordinate mortgage on the property to secure its \$4 million contribution. This mortgage will automatically subordinate to any private debt and equity financing necessary for the project. This subordinate mortgage will be released upon the Certificate of Completion.

Staff Recommendation: Staff seeks Council direction as this Term Sheet deviates from existing City economic development policy.
Fiscal Impact: \$4 million contribution from City
Public Notice/Recording: N/A
Goals Impacted: A Great Place to Live, Strong Local Economy

TERM SHEET
Riverbend Commons
October 10, 2013
(FINAL DRAFT)

1. Developer:

Three Corners Development, Inc. will form a single purpose development entity (the "Developer"), to facilitate construction and leasing of the Project (as hereinafter defined). The Developer intends to develop the Phase I of the Riverbend Commons redevelopment ("the Project"), which is defined in Section 3 below.

2. Developer Address:

Three Corners Development, Inc.
15426 S 70th Court
Orland Park, IL 60462
Attn: Christopher Woods and Mark Marshall

3. Project:

The Developer will construct a mixed use project consisting of a 107,990 square foot student housing facility that will be known as the Mills at Riverbend Commons and a 20,087 retail use in the same building.

There will be 240 beds in the student housing facility consisting of approximately 15 two-bed studio units, 45 two bed, two bedroom units, and 30 four bed, four bedroom units.

The retail portion is anticipated to include such uses as food, lifestyle, fitness and healthcare.

The site is located just east of downtown Moline on a 15.5 acre site at the intersection of River Drive and 29th Street that is adjacent to the Western Illinois University-Quad Cities campus.

Hereinafter defined as (the "Project").

4. City Financing:

The City intends to negotiate a redevelopment agreement (the “Redevelopment Agreement” or “RDA”) with the Developer for a \$4 million contribution of capital as follows:

The City will deposit the \$4 million into a construction escrow (the “City Construction Escrow”) at which time all developer equity and senior construction debt is also placed into escrow in an amount that will facilitate construction of the entire project. The Developer will make construction draws against the City Construction Escrow as it incurs project costs, following submission of City-approved requests for payment, on a monthly basis. To the extent possible, the City Construction Escrow will reimburse for eligible costs under the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et. seq.) (the “Act”). However, should there not be enough eligible costs to draw \$4 million; the City will release these funds for general project costs. The construction escrow agreements will determine the order of the release of the funds. It is anticipated that the order of spending of the funds will be the Developer’s equity first, the City’s equity second, and the senior debt construction funds last. However, this may vary if TIF eligible costs are being reimbursed. In such a case, the Developer will submit to the City a request for certification of the TIF eligible cost and to the extent deemed TIF eligible, the City may approve the draw request out of the City’s fund at that time. The Developer will submit all appropriate documentation, as is reasonable and requested by the City, to determine TIF eligibility.

5. Land Conveyance

Upon closing, the Developer will purchase the eastern most 5 acres or such size necessary to complete the project as indicated in Attachment A (Phase I Schematic) which is a portion of *Lot 1 Technology Corridor 1st Addition* (Attachment B) (the “Phase I Project Land”). As an attachment to the Redevelopment Agreement, the City will provide a survey legally describing the exact lot dimensions of the Phase 1 Project Land.

The Developer will pay \$1.7 million for the land. The City will convey fee simple title to the land with all necessary environmental representations and warranties for the Developer to immediately commence construction.

6. City's Right to Purchase the Land After Conveyance

A first right to purchase provision shall be placed in the RDA requiring the individual deeds to contain a first right to purchase clause providing that in the event the Developer terminates this Agreement prior to the issuance of a Certificate of Completion, or in the event the Developer is found to be in default under the RDA, based on at least thirty (30) days' notice from the City, with all applicable cure periods having expired subsequent to the conveyance of any of the parcels, then the Developer, at the request of the City, shall convey title to the Property back to the City, upon written demand to do so by the City, with said conveyance to the City to be pursuant to a real estate sales contract attached to the RDA as an Exhibit. If the Developer is found in default under this agreement, the City will have the right to purchase the land back from the Developer for the amount paid for it (\$1.7 million). Should the City exercise its right to repurchase the land and after construction and other liens are placed on the property, the City may exercise their right to repurchase the land after at which time all construction liens are satisfied or mutually settled. The City may, at their sole discretion, negotiate with the construction lender and all lien holders a mutual settlement. Should the City exercise their right to repurchase, it will City's obligation to mutually settle the lien holders. The City recognizes that the encumbrances on the land must be mutually settled before a reconveyance of land could occur. The City has 120 days from the time of default to exercise this right. This right to repurchase the land will expire upon issuance of the Certificate of Completion. This right to repurchase will be secured by a covenant that will run with the land.

7. Other Project Financing and Development Fee:

The Developer will contribute the sufficient debt and equity capital to finance the Project in entirety. Additionally, the Developer agrees to defer \$500,000 of its development fee from the Project until the sooner of the commencement of Phase 2 (to be defined in the RDA) or 18 months after commencement of construction of the Project.

8. Certificate of Completion:

The Completion Certificate for this development shall be issued upon the following conditions being met:

- Completion of construction for all structures and all public infrastructure improvements required.
- Issuance of all Certificates of Occupancy for buildings in that phase of the Project by the City, not to be unreasonably withheld.
- The retail portion of the individual phase of the Project is at least 65 % leased.
- The student housing portion is at least 90% leased and occupied.

9. City Approvals:

The City must approve initial plans and specifications, a survey, and certain to be determined changes in Project scope.

10. DBMT Process:

The City and the Developer will follow the City’s Design Build Management Process (“DBMT”) process through Renew Moline.

11. Exclusivity

Until at which time a Certificate of Completion issued, the City agrees not to financially assist any other development that includes student housing without the Developer consent not to be unreasonably withheld.

12. Future Phases:

The Developer agrees to provide the City with schematic plans for Phase 2A of this development by June 30, 2014. The Developer will also make every good faith effort to develop all future phases. The Developer will agree not to request additional municipal incentives for future phases until at which time the \$4 million is fully repaid through increased property, sales and other revenues.

13. Subordinate Mortgage:

Until a Certificate of Completion is issued, the City will have a subordinate mortgage on the property to secure its \$4 million contribution. This mortgage will automatically subordinate to any private debt and equity financing necessary for the project. This subordinate mortgage will be released upon the Certificate of Completion.

14. Developer Requirements for Closing of Land

Full funding of developer equity, lender financing and City financing to be put into construction escrow, copy of owner title policy, UCC, tax and judgment searches, and opinion of counsel as to the Developer’s ability to enter into the agreement.

15. Performance bonds:

Payment and performance bonds are required for any work in the public way in an amount to be in compliance with City ordinance and state statute.

16. Bid Requirement and Prevailing Wages:

There are no public bid requirements associated with this Project, except for work performed in the public right -of-way. The Developer will also commit to pay prevailing wages.

17. Limits on Developer Action:

Until a Certificate of Completion is issued by the City, the Developer may not, without the City's reasonable consent enter into a transaction that would cause a material and detrimental change to the Developer's financial conditions including: (i) merge, liquidate or consolidate, (ii) sell, lease or transfer the property in said phase or all or substantially all of its property (other than retail leases , sale of outlots or retail pads, if applicable, and similar transactions contemplated herein), (iii) enter into any transaction outside the ordinary course of business, or (iv) assume or guarantee the obligations of any other person or entity.

The Developer may not, at any point, apply for tax-exemption on the land or elect tax-exempt status. Furthermore, if the property is sold to a tax-exempt entity, that entity must pay the normal property taxes as levied by the assessor for the property unless otherwise agreed to in writing by the City. This provision will be secured by a covenant that will run with the land.

18. Limits on Other Financing:

Prior to the issuance of the Certificate(s) of Completion, City consent is required for any financing other than Lender and Equity Financing to facilitate construction of the Project. After issuance of the Certificate of Completion, all City restrictions will expire.

19. Title Company for Closing:

To be determined

20. Future Bond Issuance

The Developer will assist the City in any future bonding efforts related to this TIF district by providing all information necessary. In no case will the Developer be obligated to assume any costs of City bonding not associated with this specific transaction.

21. Economic Disclosure Statements - Principals, Structure and Partners in LLC's

Developer will comply with City requirements for disclosure of individuals, corporations or other entities who are party to the developer's legal ownership and the Redevelopment Agreement.

22. City Remedies upon Default

The RDA will contain all reasonable and customary default provisions for real estate transactions. In addition, the RDA will specifically provide for a subordinate and covenants that run with the land as described above.

23. Good Faith Efforts

City shall assist developer and make good faith effort to approve and provide traffic control signals at 29th Street and River Drive and 25th Street and River Drive. Developer shall include the costs associated with such approval and installation in future budgeting and phases.

City shall provide the Developer with a cost sharing arrangement for Marketing efforts and supporting collateral for the Riverbend Commons site.