



## Request for City Council Committee Action from the Department of

**Date:** June 5, 2012

**To:** Council Member Lisa Goodman, Chair Community Development Committee

**Subject:** Amended Redevelopment Contract Terms for the land sale pass through of 129 Plymouth Avenue North from MnDOT to Plymouth and Second, LLC, an affiliate of Lupe Development Partners, LLC

### Recommendation:

1. Developer requests amended redevelopment contract terms outlined in the term sheet attached to this report.
2. Authorize appropriate City officials to execute a redevelopment contract and any related documents.

### Previous Directives:

- On September 2, 2011, the City Council approved the land sale pass through of 129 Plymouth Avenue North from MnDOT to Lupe Development Partners, LLC for \$208,000 and authorized staff to execute a redevelopment contract and any related documents.
- On September 3, 2010, the City Council granted exclusive development rights to Lupe Development Partners, LLC for a period of one year (through August 24, 2011), with one potential extension through August 24, 2012.
- On February 26, 2010, the City Council accepted a brownfield clean-up grant for the site from DEED and Hennepin County (since relinquished due to timing of the development).
- On August 28, 2009, the City Council granted various zoning and land use approvals (since expired).
- On August 14, 2009, the City Council accepted a brownfield investigation grant from DEED (since relinquished due to timing of the development).

### Department Information

Prepared by: Carrie Flack, Senior Project Coordinator, 612-673-5010

Approved by: Charles T. Lutz, Deputy Director CPED\_\_\_\_\_

Catherine A. Polasky, Director of Economic Policy & Development\_\_\_\_\_

Presenters in Committee: Carrie Flack, Senior Project Coordinator

### Financial Impact

- No financial impact
- Action is within the Business Plan

## **Community Impact**

- Neighborhood Notification – This property sale was reviewed by the North Loop Neighborhood Association (NLNA) several times between March and June 2009. The developer, Lupe Development Partners, LLC will provide an update when they file new land use planning approval applications.
- City Goals – Jobs and Economic Vitality; Livable Communities, Healthy Lives; Eco-Focused, and A City that Works.
- Comprehensive Plan – All required land use approvals expired on August 24, 2011. The developer will reapply and seek new approvals prior to construction.
- Zoning Code – All required land use approvals expired on August 24, 2011. The developer will reapply and seek new approvals prior to construction.

## **Supporting Information**

The Minnesota Department of Transportation (MnDOT) originally acquired property at 129 Plymouth Avenue North in 1969 in connection with the potential construction of a new roadway (I-335). When that project was delayed, MnDOT leased the property to a battery reclamation business in 1973. The I-335 project was cancelled in the early 1980's, at which time the lease to the battery reclamation company was also cancelled. During that time, the Environmental Protection Agency (EPA) determined that the property was highly contaminated, and it was added to the State Superfund list under the name "Shafer Metal Recycling". MnDOT remediated the site during 2004 and 2005, and the site was thereafter "delisted" by the Minnesota Pollution Control Agency (MPCA) around September 9, 2005.

CPED staff initiated discussions with MnDOT in 2008 regarding the possible redevelopment of the property. MnDOT ordered an appraisal of the property which was completed in March 1, 2008 and indicated a value of \$293,000. CPED issued a Request for Proposals (RFP) in August 2008. The RFP sought a job-intensive use and contemplated a MnDOT-imposed December 2008 closing deadline. Lupe Development Partners, LLC was the only party that submitted a proposal for the development of the site.

MnDOT subsequently agreed to extend the closing deadline and adjust the purchase price to \$208,000 based on a reduction in square footage and the projected cost of additional environmental remediation. The developer received land use approvals for a 10,153 sq. ft. single-story, multiple-tenant retail shopping center with a drive-through restaurant in August 2009. Lack of interest in the retail market, however, prevented the developer from obtaining sufficient tenants or financing to proceed with the project.

Last fall the developer contemplated closing and commencing cleanup of the site without any tenant commitments. The City Council approved the land sale in September with a three-year window to commence construction, but the parties failed to conclude a redevelopment contract.

MnDOT has indicated that it will approve one final extension of its offer letter to July 31, 2012. The developer is requesting various waivers and exceptions to the City's standard redevelopment terms and conditions to ameliorate the risks involved in acquiring the site in advance of tenant commitments or financing. The environmental remediation grants awarded to this site by Hennepin County and DEED have expired as well as the land use planning approvals.

This is a land sale pass through from MnDOT to the developer that involves no possible assembly of adjacent property. The property consists of abandoned excess right of way from a cancelled roadway project and is less than one acre (34,338 sq. ft.) in size. The property boundaries are largely Plymouth Avenue North, Second Street North and railroad right of way. The property is adjacent to the Star Tribune on the south.

Typically, public development projects are not speculative in nature. A specific committed tenant or user of the site and financing is generally required by the City prior to closing on a

public land sale. This is one way that the City ensures that there is a public benefit outcome resulting from the sale of the land under its redevelopment authority. However, the challenges with this site, the recession, MnDOT prohibitions on signage to recruit tenants and the passing of time have prevented the developer in securing financing and/or an end user of the site. The developer has requested the amended terms attached to provide maximum flexibility to achieve re-development for this site and place the property on the City tax roll in the future.

## Redevelopment Contract Term Sheet

129 Plymouth Avenue North

1. Closing Deadline: July 30, 2012. Waive standard City closing requirements and developer contingencies such as zoning approvals, construction plans and financing.
2. Construction Start: At least 30 days advance written notice from the Developer to the City of Minneapolis. December 31, 2014 as outside commencement date.
3. Construction Completion: Within 12 months after the Construction Start Date
4. Minimum Improvements: New construction of an approximately 10,000 square foot, one-story shopping center facility and related improvements substantially similar to the site plan approved by the CPC in August 2009
5. Purchase Price: \$208,000.00 cash at closing per letter from MnDOT
6. Transfer Fee: \$20,800.00 – Cash at closing; nonrefundable
7. Good Faith Deposit: \$20,800.00 – The developer has requested that the City accept an unsecured Promissory Note rather than cash for the 10% Good Faith Deposit; payment is due only if the developer defaults/fails to perform.
8. Limitations on Encumbrances –The developer has requested that the City reasonably approve and subordinate its property interests to a construction mortgage, which may encumber the property only after the Construction Start Date Notice for purposes of financing the Minimum Improvements.
9. Default –The developer has requested that the City extend the cure period for certain defaults from 30 days to 180 days after written notice of default from the City to the developer.
10. Reversionary Rights – The developer has requested waiver of the standard redevelopment contract and deed default remedy that allows the City to revert title, resell the property and reimburse the developer from net proceeds, if any, thus eliminating any scenario in which the City would take this property back to achieve the public purpose of a development project should the developer fail.