



Legislation Text

File #: 08-0251, Version: 3

Resolution to Approve the Sale of City-Owned Property Located in the Ann Arbor Tally Hall Condominium to McKinley Inc. for the McKinley Towne Centre - Liberty Retail Development **(8 Votes Required)**

Attached for your review and approval is a resolution to authorize the sale of 5,913 square feet of common area in the Ann Arbor Tally Hall Condominium ("Condominium") to McKinley Inc. through MTC 2, LLC, or another affiliated ownership entity ("McKinley"). The developer will use this common area as part of the McKinley Towne Centre - Liberty Retail Development ("Development"), which Council approved on January 7, 2008 in R-08-008, subject to completion of this sale.

The common area is owned and operated by the Ann Arbor Tally Hall Condominium Association, which consists of the City, through its ownership of the Liberty Square parking structure, and McKinley, through its ownership of the first floor and basement office space. McKinley's approved site plan will add retail space, as well as second floor and basement office space to the building when construction of the project is complete. Part of the project will include construction on the site of the former National City Bank, at 505 E. Liberty, which will be added to the Condominium.

The square footage to be sold includes several small sections of common area that are not needed by the City to maintain the Liberty Square parking deck. The sections are detailed below, and shown on the attached diagrams:

<u>Common Area Section</u>	<u>Square Feet</u>
North Lobby	122
South Lobby - First Floor	699
South Lobby - Second Floor	699
Gap Space - First Floor	473
Gap Space - Second Floor	473
Escalator/Open Floor - First Floor	1,729
Escalator - Basement	<u>1,718</u>
 Total Common Area	 5,913

The North Lobby (entrance from Washington Street) to the parking structure was reduced by 122 square feet and converted to office space by the previous owner of McKinley's condominium unit. The South Lobby (entrance from Liberty Street) to the parking structure will be reduced by 699 square feet, and will have new construction above for an additional 699 square feet. The South Lobby was designed for a larger access to the first floor and basement retail and food court of Tally Hall which is no longer required. The Gap Space, which will consist of two floors in the new development is currently a walkway between the Condominium and the former National City Bank building that allowed an exit from the interior of the Condominium to the alley. This Gap Space, along with the South Lobby space will be converted to first floor retail space, with second floor office space above. The Escalator Space in the center of the Condominium will be used by McKinley as office

space and an atrium. This common area contained the escalator that serviced the interior retail and food court of Tally Hall. On both floors this Escalator Space is surrounded by McKinley's condominium unit and is not needed for the operation of the City parking structure.

There are no other changes proposed to the common area of the Condominium. The alley to the West of the Condominium was removed from inclusion in McKinley's development prior to Council approval of the site plan on January 7, 2008. As such, no common area from the alley is proposed for sale and the entire alley will remain common area that will be operated and maintained by the Condominium Association.

McKinley and the City have agreed that the value of the common area is \$400,000. This value is based on projected income that the square footage will produce as part of the new project, and the City's analysis of the value was done in consultation with an appraiser. As the common area is jointly owned by the City and McKinley through the Condominium Association, McKinley has agreed to pay the City \$200,000 for the 5,913 square feet of common area.

Sale of this common area to McKinley will require revision of the Master Deed, the Condominium Subdivision Plan, and the Condominium Association Bylaws. The Master Deed and Bylaws will need to be revised to reflect the sale, showing that the common area has been converted to McKinley's condominium unit. McKinley's new construction at 505 E. Liberty will also need to be added to the Condominium. There will also need to be revisions made to the Master Deed and Bylaws to ensure that the City's responsibilities and costs for maintenance and operations of the remaining common areas do not increase unnecessarily due to McKinley's additions and improvements to the Condominium.

We recommend that Council approve the sale of 5,913 square feet of common area in the Ann Arbor Tally Hall Condominium to McKinley for \$200,000, and that the Condominium Master Deed, Subdivision Plan, and Association Bylaws be amended to show the revised boundaries of the common areas and condominium units. We also recommend that Council authorize the Administrator and City Attorney to negotiate revisions to these documents to address maintenance, operations, and administration of the revised Condominium. Approval of these recommendations will allow McKinley to continue development of the McKinley Town Centre - Liberty Retail Development PUD Site Plan.

Prepared by: Kevin McDonald, Senior Assistant City Attorney

Reviewed by: Stephen K. Postema, City Attorney

Approved by: Roger W. Fraser, City Administrator

Whereas, The Ann Arbor Tally Hall Condominium Association owns and maintains common area in the Ann Arbor Tally Hall Condominium ("Condominium"), located between Liberty and Washington Streets, in the City of Ann Arbor, Washtenaw County, State of Michigan, and more fully described as follows:

Ann Arbor Tally Hall Condominium, according to the Master Deed thereof, as recorded in Liber 2116, Page 810, Washtenaw County Records, designated as Washtenaw County Condominium Subdivision Plan No. 60.

Whereas, The City of Ann Arbor and McKinley, through MTC 2, LLC, or another affiliated ownership entity ("McKinley"), are the only members of the Ann Arbor Tally Hall Condominium Association through their ownership of units in the Condominium, and are co-owners of the general common area

in the condominium;

Whereas, On January 7, 2007, City Council approved the McKinley Towne Centre - Liberty Retail PUD Site Plan and Development Agreement (R-08-008), subject to McKinley entering into an agreement with the City for the sale of the general common area necessary to complete the development;

Whereas, McKinley has decided not to pursue the McKinley Towne Centre - Liberty Retail PUD Site Plan at this time, but still requires the sale of some of the general common area to redevelop parts of the site;

Whereas, McKinley, desires to purchase 3,042 square feet of common area in the Condominium from the City, as shown on the attached diagrams, for the purpose of completing the McKinley Towne Centre - Liberty Town Center development;

Whereas, the City and McKinley have agreed that McKinley will pay the City \$200,000.00 for the common area;

Whereas, the Michigan Home Rule Cities Act and the Ann Arbor City Charter, pursuant to Chapter 3, § 3.1, grant the City the power to sell or dispose of real property; and

Whereas, City Council has determined that the property is no longer needed for public purposes;

RESOLVED, That City Council direct the City Attorney to transfer title to the above described common area in the Ann Arbor Tally Hall Condominium to McKinley, or an affiliated ownership entity, for the sum of \$102,896.00;

RESOLVED, That City Council finds, upon the recommendation of the City Administrator, that a fair market rate appraisal is unnecessary, as the City consulted with an appraiser and analyzed the value of this common area using an income approach;

RESOLVED, That City Council authorize the City Attorney and the City Administrator to negotiate a purchase agreement for the common area, and negotiate and revise the Condominium Master Deed and Bylaws that govern operation of the Condominium.

RESOLVED, That City Council authorize the Mayor and City Clerk to execute a purchase agreement for the common area, and a revised Master Deed and Bylaws for the Ann Arbor Tally Hall condominium subject to approval as to substance by the City Administrator, and approval as to form by the City Attorney, and;

RESOLVED, That the City Administrator be authorized to take any necessary administrative actions to complete this transaction.

As amended by City Council on November 6, 2008