



Legislation Text

File #: 08-0998, Version: 1

Resolution to Amend R-08-120 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 amend the previously approved Council 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"). Originally, this sale was requested so that McKinley could complete the Mckinley Towne Centre - Liberty Retail Site Plan that was approved by Council on January 7, 2008 in R-08-008. . McKinley has decided not to pursue the Mckinley Towne Centre - Liberty Retail Site Plan at this time, but is requesting that the City sell it a smaller amount of common area to complete the renovation of the existing buildings on the site, which includes the former National City Bank, at 505 E. Liberty and office space in the Ann Arbor Tally Hall Condominium.

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. Sale of the common area will allow McKinley to expand the rental office space in Tally Hall and to renovate the site of the former National City Bank, at 505 E. Liberty, which will be renovated, but will no longer 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:

Common Area

|                                      |                   |
|--------------------------------------|-------------------|
| North Lobby -                        | 122 square feet   |
| Gap Space - First Floor -            | 286 square feet   |
| Escalator/Open Floor - First Floor - | 916 square feet   |
| Escalator - Basement -               | 1,718 square feet |
| Total Common Area-                   | 3,042 square feet |

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 Gap Space is currently a walkway between the Condominium and the former 505 E. Liberty building that provides an exit from the interior of the Condominium to the alley. This Gap Space, will now be used for egress and ingress to the retail space and basement space in the 505 E. Liberty Building, as well as to the office space in Tally Hall. 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. The previous resolution included an additional 2,871 square feet of common area

as part of the sale, including space in the South Lobby (including a proposed second floor) and additional Gap space (including a proposed second floor) that would have been required for the larger project. McKinley no longer requires these areas under their current development program.

McKinley and the City have agreed that the value of the common area is \$205,792. 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 \$102,896 for the 3,042 square feet of common area. (In the original resolution, McKinley agreed to pay the City \$200,000 for 5,913 square feet.)

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. There may 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 improvements to the Condominium.

We recommend that Council approve the amendment of this resolution for the sale of 3,042 square feet of common area in the Ann Arbor Tally Hall Condominium to McKinley for \$102,896, 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, if necessary. Approval of these amended resolution will allow McKinley to improve the leasable office space in Tally Hall, and to renovate 505 E. Liberty.

Prepared by: Kevin McDonald, Senior Assistant City Attorney

Reviewed by: Stephen K. Postema, City Attorney

Approved by: Roger Fraser, City Administrator

RESOLVED, That City Council amend R-08-120 to read as follows:

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 5,913 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 \$102,896 200,000 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 Two Hundred Thousand dollars \$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 Revised

RESOLVED, That City Council amend R-08-120 to read as follows:

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 5,913 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 \$102,896 200,000 102,896 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 Two Hundred Thousand dollars\$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.

See Revised Resolution above