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CC Regular Session

7. 13.

Meeting Date: 01/24/2017

Submitted For: Patrick Brama, Administrative Services

By: Patrick Brama, Administrative Services

Information

Title:

Right-Of-Way Acquisition Loan Fund (RALF) Program: Case of 6401 Highway 10: Consider Purchase Agreement [CASE MAY BE CLOSED TO PUBLIC]

Purpose/Background:

PURPOSE

- (1) Previous Case: on 09/13/2016, the Council approved the attached draft application for the Metropolitan Council Right-Of-Way Acquisition Loan Fund (RALF). The Council also authorized staff to complete the due-diligence work outlined in the attached budget, not-to-exceed \$54,500.
- (2) This Case: the purpose of this case is to consider approving the attached Purchase Agreement. Once approved, staff will enter into an Purchase Agreement with the Seller. Staff will then be in a position to complete the final required due-diligence (i.e. removal of tanks, and Phase II ESA).
- (3) Future Case: in future case, once the Phase II ESA (i.e., environmental review) is completed, the Council will be ready to submit a final/ formal application to the Metropolitan Council for RALF funding. NOTE: the Metropolitan Council has previously approved Ramsey's pre-application, and encouraged the City to submit a final application, once due-diligence is completed.
- (4) Close purchase agreement: receive Metropolitan Council funding.
- (5) Demolish and clean-up site: site will be ready for U.S. Highway 10 improvements.

BACKGROUND

RALF Program

Land needed for future Highway 10 right-of-way can be lost to development (or redevelopment) because MnDOT is unable to purchase highway right-of-way until the time a road is programmed for actual construction. To address this, the 1982 Minnesota legislature established a revolving loan fund program to acquire undeveloped (or underdeveloped) property located within an officially-mapped metropolitan highway right-of-way that is threatened by development (or redevelopment).

In 2010 the Metropolitan Council suspended its 30-year old RALF program to assess its financial effectiveness, ensure that loans being made are consistent with the TPP, and determine what changes, if any, should be made to the program. The Metropolitan Council reinstated the program in 2014 with stricter eligibility requirements. Since then, however, the Metropolitan Council has not made any loans to the City of Ramsey (or any other city). The current balance of RALF is \$14.3M.

City of Ramsey use of RALF (old plan)

In the early to mid-2000's the City of Ramsey purchased several properties located along U.S. Highway 10 via the Metropolitan Council Right-Of-Way Acquisition Loan Fund (RALF). These properties were purchased based on the "old" US Highway 10 plan that called for the highway to be completely shifted north, adjacent to the BNSF tracks, throughout the entire city. The City adopted the MnDOT/ Metropolitan required "Official Map" in 2004 to reflect our intention to purchase properties for future Highway 10 improvements.

Highway 10 Access Planning Study (new plan)

In 2014, MnDOT and Anoka County, in cooperation with the Cities of Ramsey and Anoka, conducted the Hwy 10 Access Planning Study to re-examine and identify the ultimate amount of access, types of access, and locations of access to Hwy 10 between the Anoka/Sherburne County line and the Rum River. This study was completed so that high-benefit improvements that are fiscally responsible could be identified so that improvements can be funded, programmed and implemented incrementally to improve the corridor's mobility and safety, for motorists and pedestrians, in a timely manner.

In summary, the new Highway 10 Access Planning Study (Highway 10 plan) does not require Highway 10 to be shifted north to the BNSF rail line throughout Ramsey, and results in a much lower demand for "full" property acquisition (in comparison to the former Highway 10 plan). Subsequently, the new Highway 10 plan reduces the demand on the RALF program. Please see attached maps for visuals/ details.

Link: <http://www.dot.state.mn.us/metro/projects/hwy10study/>

6401 Highway 10

Property was formerly a Shell gas station, which included two sub-lease tenants (Cousins Subs and Taco Johns). All businesses closed in early 2015. Owner listed property with Calhoun Companies previously, and is now listing with Colliers. Due to various local forces (changed access to site, and a low absorption of retail space) the next user for this site will need to convert from a gas station to another use (i.e. office or a different form of retail). The property owner has indicated his priority is to have 6401 Highway 10 sold by the end of 2016, regardless of the buyer.

The property owner is "willing seller" and is willing to sell this property below market value. This property is officially mapped, and is needed for full accusation in the old and new Highway 10 plans. Outside of helping accomplish the US Highway plans, by purchasing this property (and demolishing/ cleaning-up), the City would be able to clean up a blighted property, and improve the visibility of a struggling retail node.

RALF Application, 6401 Highway 10

Attached is the City's draft RALF application for 6401 Highway 10. The City Council approved this application in September 2016. The Metropolitan Council & MnDOT staff team approved Ramsey's pre-application, and have encouraged Ramsey to submit a final application, when all due diligence is completed.

A major component of the City Council's approval or the pre-application in September included the completion of due-diligence (environmental assessments, appraisal, pre-demo survey, title work, etc.). The attached work order generally outlines said work. At this point, most work has been completed (Phase I ESA, pre-demolition survey, title work, appraisal). Outstanding items include a Phase II ESA.

Notification:

NA

Observations/Alternatives:

Due Diligence Items

Pre-Demolition Survey

Generally, the purpose of the pre-demolition survey is to identify hazardous materials within a building, before they are disturbed during demolition. Based on the pre-demolition survey, and the age of the building (not old), no major issues are anticipated by staff during the demolition of this building. It should be noted,

two items were flagged as issues. One item was the car wash, and the several tanks of chemicals that remained on the site. Staff disclosed this concern with the seller. They have removed all liquids from the tanks. Staff has also added language to the PA to reflect this item. The second item was the underground oil tanks (discussed more below). Please see attached survey for details.

Phase I ESA

Generally, the purpose of a Phase I ESA is to do research on a property--to determine if physical testing of soils is needed. The Phase I ESA did come up with several recognized environmental conditions (REC). This gas station, was once a part of a larger site, which was home to several businesses over the years (several auto oriented). The larger site has experienced various environmental issues in the past, which have been documented with the MPCA. Additionally, this site is a gas station, which includes underground storage tanks for petroleum. With these two general items in mind, the various identified RECs will justify/ demand a Phase II ESA be completed on this project. NOTE: it appears that the MPCA has generally cleared (written closure letters) RE previous issues on the site. Please see attached ESA for details.

Phase II ESA

Generally, the purpose of a Phase II ESA is to physically test soils for potential contamination. Staff has been advised by Bruan InterTech (the company that completed the Phase I ESA), that we should consider completing tank removal, before we close on purchasing this site, for two reasons. First, if we purchase the site, with tanks remaining in the ground, we will hold some liability over those tanks, and any potential subsequent leaks (i.e. we are exposing the City to more potential liability). Secondly, regardless if we remove the tanks now, or after closing on a purchase, we will need to complete a Phase II ESA (mandated by the State after tank removal). The only difference is, if we wait until after we close on purchasing the property, we would then need to complete two Phase II ESAs. In summary, we can save money on Phase II ESAs by removing the tanks before closing. Please see attached ESA for details.

Appraisal

The asking price for this property is \$695,000. The appraisal came back at \$645,000. Staff has updated the attached purchase agreement accordingly. Staff is waiting to hear back from the seller on this item. Please see attached appraisal for details.

Title Work

The title work generally came back clean. The City Attorney did find a glitch in the chain of title (i.e. who the owner was). That item has been addressed by the Title Company, and the attached purchase agreement has been updated accordingly. Please see attached title work for details.

Funding Source:

Funding Source

-short term-

The City has a an account in place today, that captures revenues from all Ramsey-owned properties located along Highway 10, that were purchased via RALF, and are currently being leased to private organizations. This "Internal Ramsey RALF Fund" can *ONLY* be used on expenses related to RALF/ properties purchased via RALF. The balance of that account is \$186,000 roughly. Staff is using this account as a temporary/ short-term project funding source (due-diligence costs).

-long term-

The long term/ permanent funding source proposed for this project is the RALF program. The the background section of this case describes the program. The attached application describes the City's proposal. Once the purchase agreement is closed, all costs will be funded via this new RALF program loan.

Staff Funding Source Comment

In the event the City doesn't close on this purchase agreement, we would not receive a new RALF award from the Metropolitan Council, we would be liable to cover our upfront due-diligence expenses (i.e. costs incurred before closing). In that situation, we those costs would be permanently charged to our "Internal Ramsey RALF Fund."

Project Budget

Please see that attached 2-page project budget. The overall project budget covers all costs. The due-diligence project budget only covers costs incurred to the City before closing.

From an overall project budget perspective, we are trending in the right direction (down slightly). From a due-diligence budget perspective, costs are trending higher. The reasons costs are higher, for the due diligence budget, is for two reasons:

First, staff's proposed strategy on the Phase II ESA/ tank removals has changed. We are proposing to remove the tanks before closing on the purchase of this property (i.e. during the due diligence process). Although it may appear this is a "new" project cost, it is not entirely—staff originally anticipated removing the tanks after closing, during demolition. Second, the cost to remove the tanks, and complete the required State testing/ documentation, was more than staff originally anticipated.

Recommendation:

Please see attached email MEMO from the City Attorney.

Staff recommends moving this project forward, and approving the attached purchase agreement. The major next hurdle is removing the underground petroleum tanks and completing the Phase II ESA. If that process is clean, we should be in a good position to close on the purchase. If not, we will need to bring back this case for further discussion (i.e. what is the scope of contamination/ remediation? how do we clean up the site? what will the funding source be?, etc.)

Action:

Motion to:

Approve the attached agreement with Series Sunfish of Athans Holdings, LLC for the purchase of Lot 2, Block 1, Sunfish Commons; subject to final review and amendments by the City Attorney.

--and--

To authorize staff to complete final due-diligence: including removing the underground storage tanks and completing a Phase II ESA.

Purchase Agreement Status

Attached to this case is the current draft of the purchase agreement. This agreement will be updated on Monday 01/23. Staff, various attorneys, and the buyer are currently negotiating final details.

Attachments

Final Clean PA

Pre Demolition Survey

Phase I ESA

PHASE II ESA (proposal)

Appraisal

Title Work

Attorney Email

Budgets (2 pages)

RALF Application (draft)

Braun Comments

Seller Redline PA

Buyer Redline PA

Form Review

Inbox

Kurt Ulrich
Patrick Brama (Originator)
Form Started By: Patrick Brama
Final Approval Date: 01/20/2017

Reviewed By

Kurt Ulrich
Patrick Brama

Date

01/19/2017 05:03 PM
01/20/2017 01:56 PM
Started On: 01/18/2017 03:54 PM