

Mile High Greyhound Park Purchase & Sale, MDA, and Owner's Representative Agreements

June 17, 2019



Purpose



- Provide update to CCURA on status of MHGP negotiations
- Obtain CCURA Board's action on the agreements covering:
 - Purchase and Sale Agreement
 - Owner's Representative Agreement
 - Modified Master Development Agreement
- Obtain CCURA Board's direction on LIHTC gap funding options for the Escrow Agreement (which is an Exhibit attachment to the Purchase and Sale Agreement)

Actions By Agreements



- Purchase and Sale Agreement locks in Delwest's commitment to take over as master developer
- Owner's Representative Agreement with REGen signs over master developer rights to Delwest and secures services as owner's representative
- Modified Master Developer Agreement (MDA) locks in Delwest's responsibilities as master developer
- All four agreements scheduled for CCURA Board action by one resolution

PSA & Escrow Agreement



- Purchase & Sale Agreement (PSA)
 - Delwest's \$9.5 million for all residential land to escrow
 - City's \$2.5 million for stormwater pond to escrow
- Escrow Agreement
 - \$9.5 million is escrowed for public infrastructure
 - \$2.5 million separately escrowed for pond
 - Delwest asking for \$3.75 million for LIHTC funding gap to be escrowed as well

PSA & Escrow Agreement



- Risk during due diligence
 - 65 days for Delwest to inspect & do environmental testing
 - If Delwest terminates, CCURA must pay for preliminary engineering fees up to \$300K (non-refundable after DD)
- Closing conditions:
 - Master subdivision plat complete
 - \$3.75 million separately escrowed for LIHTC funding gap
 - Delwest may waive these conditions & close early
 - Outside date: April 1, 2020

PSA & Escrow Agreement



- Escrow Agreement to be signed by City, CCURA & Delwest at closing
 - Manages \$9.5M, \$2.5M, and \$3.75M on how and when it may be released to Delwest (CCURA must sign off on each draw)
 - Handles escrowed deeds in case CCURA exercises right to repurchase
- Purchase conditions:
 - CCURA conveying property “as is” to Delwest
 - Naming Delwest as additional insured on environmental insurance

PSA & Escrow Agreement



- Delwest accountability
 - If Delwest abandons construction or defaults on schedule, CCURA can take the applicable block back (repurchase price is any \$ spend by Delwest on improvements on that block)
 - This right expires upon completion of horizontal infrastructure and once vertical development begins on that block
- Consent Right:
 - Until vertical is completed, if Delwest wants to sell to a non-affiliated third party, must obtain CCURA consent

Owner's Rep Agreement



- Parties are CCURA and REGen
 - Terminates role as master developer and sets role as owner's representative to review Delwest's work
 - REGen to inspect Delwest's work and review escrow draw requests
 - REGen to present report to CCURA for final review & funds release
 - Accountability:
 - Exhibit A Scope of Services
 - Reviews within 2 business days of receipt from Delwest
 - Termination:
 - Auto terminates when Delwest completes horizontal infrastructure
 - CCURA can terminate early at any time with 10 days' written notice

Owner's Rep Agreement



- Release:
 - REGen releases and waives any and all claims under prior MDA
 - REGen is also signing a bill of sale conveying all work to date to CCURA
- Payment:
 - Reimbursement for expenditures to date - \$331,590
 - Requesting \$5,000 per month for services

Owner's Rep Agreement



- Payment Options:
 - Buyout: pay REGen \$580,656 upon signing of Delwest deal
 - All TIF (6.5% of total TIF):
 - Reimbursement for expenditures to date - \$331,590
 - \$100,000 fee for previous work
 - \$5,000 per month for services until horizontal is complete
 - \$100,000 at signing & remainder in TIF (5.5% of TIF)
 - \$431,590 at signing & 3% of total TIF (recommended)

MDA Agreement



- Purpose:
 - Terminate and replace REGen with Delwest
 - Sets forth expectations and schedule for Delwest as master developer to complete horizontal infrastructure, vertical construction, and affordable housing
- CCURA Repayment: CCURA keeps all incremental taxes except % paid to REGen

MDA Agreement



- Overage & Underage:
 - If Delwest uses all \$9.5M and hasn't completed horizontal infrastructure, they bear the rest of the cost
 - If Delwest completes all horizontal infrastructure and there is \$ left from the \$9.5M, it goes to the project:
 - 1st for site-wide infrastructure
 - 2nd for Regional Storm Water Facility
 - 3rd for construction of infrastructure in commercial & education blocks
 - If Delwest completes Regional Storm Water Facility and there is \$ left from the \$2.5M, it goes to the project in same priority order

MDA Agreement



- Delwest Accountability:
 - If Delwest abandons construction or defaults on schedule, CCURA can take the applicable block back (price is any \$ expended by Delwest on that block)
 - This right expires upon completion of horizontal infrastructure and once vertical construction begins on the applicable block
 - Consent Right: Until vertical is completed, if Delwest wants to sell to a non-affiliated third party, Delwest must obtain CCURA consent
- Public Art:
 - Delwest must go through public art process and construct public art based on 1% of estimated cost of horizontal infrastructure and regional storm water facility

MDA Agreement



- Marketing Commercial Block:
 - Delwest has exclusive right to hire a broker to market commercial block for 5 years
 - CCURA has sole discretion to approve letter of intent, including listing price and proposed development
 - If CCURA is approached outside of broker, Delwest has a reasonable consent right to make sure that use is compatible to rest
 - Upon closing of commercial block, purchase \$ go into escrow to:
 - 1st repay Delwest for infrastructure costs incurred for improvements to commercial block,
 - 2nd pay for infrastructure cost on commercial block
 - 3rd any remainder is split 50/50 between CCURA and Delwest

MDA Agreement



- **Public Improvement Agreement:**
 - Delwest will have to enter into City's typical Public Improvement Agreement and post related surety like other developers
 - Can qualify \$ in escrow for surety, so long as they don't draw down on it
- **IGA obligations of Delwest:**
 - County: Delwest must construct affordable housing within 10 years of \$3.75M being placed in escrow
 - School District: Delwest to pay up to \$330,000 for modular buildings

MDA Agreement



- **Delwest Default:**
 - Abandon construction once begun
 - Failure to promptly pay any expense to CCURA
 - Lien on property owned by CCURA
 - Improper transfer or assignment of property or MDA to non-affiliated third party without CCURA consent
 - Bankruptcy
 - Failure to preform an material covenant of MDA
 - Failure to meet schedule (Exhibit D)
 - Failure to build LIHTC housing within 10 years

MDA Agreement



- CCURA remedies:
 - Delwest has 90 day notice and cure
 - Terminate MDA
 - Seek enforcement by injunction
 - Cure and Redeveloper indemnifies
 - Right to repurchase

Site Illustration



Approximate Development Blocks

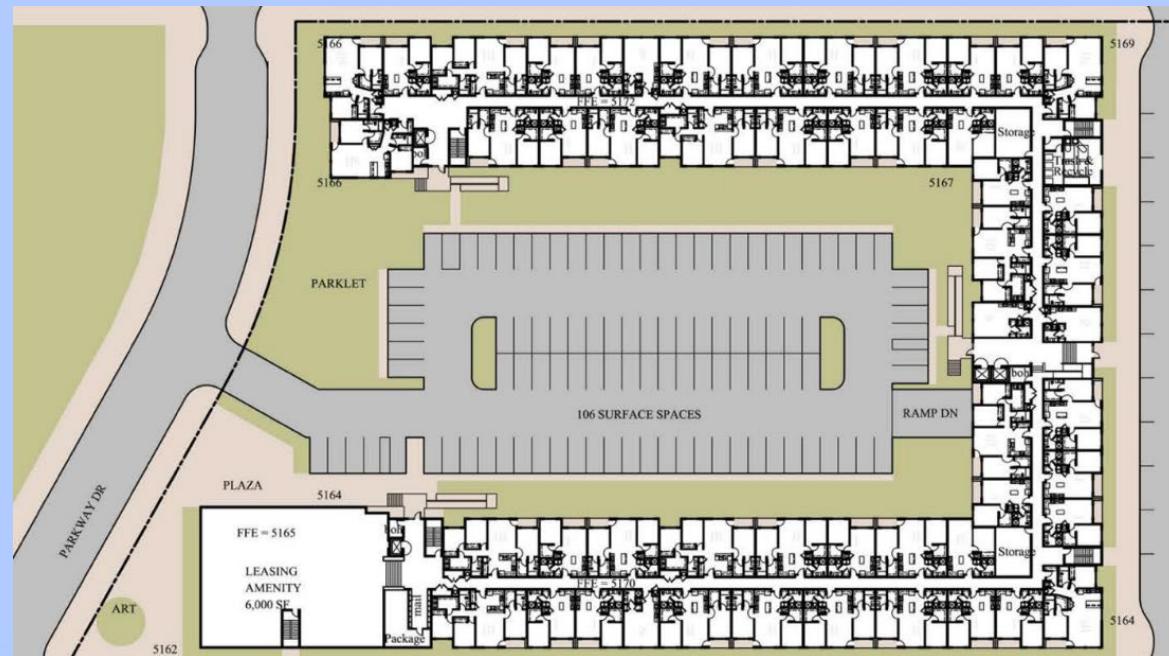
MILE HIGH GREYHOUND PARK

BLOCK DIMENSIONS
SEPTEMBER 30, 2016



LIHTC Housing

- Located on the NE corner of 62nd and Parkway
- Begin Construction in 2020



Discussion



Master Developer Timeline



MASTER DEVELOPER TIMELINE						
MASTER INFRASTRUCTURE ROW SUBDIVISION/PLAT	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Delwest engages project engineer - Kimley Horn	Milestone	Delwest Team	04/10/19	1	04/10/19
	Pre-Application Meeting w/City (Infrastructure ROW Plat)	Milestone	Delwest Team/CC Staff	06/25/19	1	06/25/19
	Prepare Final Plat Application	Task	Delwest Team	06/18/19	45	08/02/19
	Submit Final Plat	Milestone	Delwest Team	08/02/19	1	08/02/19
	Work to Plat (Infrastructure ROW Plat)	Task	Delwest Team/CC Staff	08/02/19	244	04/02/20
	CC Staff Approves Final Plat (Infrastructure ROW Plat)	Milestone	CC Staff	04/02/20	1	04/02/20
	Submit Mylars	Milestone	Delwest Team	04/07/20	1	04/07/20
DESIGN GUIDELINES	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Submit DG's to City	Milestone	Delwest Team	07/10/19	1	07/10/19
	Negotiate DG's	Task	Delwest Team/CC Staff	7/11/19	105	10/23/19
	CC City Council Study Session	Milestone	CC Staff/CC City Council	11/11/19	1	11/11/19

Master Developer Timeline



MASTER INFRASTRUCTURE DEVELOPMENT PLAN (PUD PERMIT)	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Pre-Application Meeting	Milestone	Delwest Team	10/4/19	1	10/4/19
	Submit PUD-PERMIT	Milestone	Delwest Team	10/11/19	1	10/11/19
	CC Staff Approves PUD-Permit (Infrastructure ROW)	Milestone	CC Staff	06/11/20	1	06/11/20
	Submit Mylars	Milestone	Delwest Team	06/16/20	1	06/16/20
	BEGIN HORIZONTAL CONSTRUCTION	Milestone	Delwest Team	7/1/20	1	7/1/20
	Horizontal Construction	Task	Delwest Team	7/2/20	240	2/26/21
LIHTC DEVELOPMENT PLAN (PUD PERMIT)	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Pre-Application Meeting	Milestone	Delwest Team	12/13/19	1	12/13/19
	Submit PUD-PERMIT	Milestone	Delwest Team	12/18/19	1	12/18/19
	CC Staff Approves PUD-PERMIT (LIHTC)	Milestone	CC Staff	08/18/20	1	08/18/20
	Submit Mylars	Milestone	Delwest Team	08/21/20	1	08/21/20
SINGLE FAMILY (PARCEL C-1) DEVELOPMENT PLAN (PUD PERMIT)	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Pre-Application Meeting	Milestone	Delwest Team	12/13/19	1	12/13/19
	Submit PUD-PERMIT	Milestone	Delwest Team	12/18/19	1	12/18/19
	CC Staff Approves PUD-PERMIT SINGLE FAMILY (PARCEL C-1)	Milestone	CC Staff	08/18/20	1	08/18/20
	Submit Mylars	Milestone	Delwest Team	08/21/20	1	08/21/20

Master Developer Timeline



LIHTC BUILDING PERMITS	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Submit Complete Plan set for Building Permits	Milestone	Delwest Team	7/1/20	1	7/1/20
	Receive Building Permits	Milestone	CC Staff	9/15/20	1	9/15/20
SINGLE FAMILY (PARCEL C-1) BUILDING PERMITS	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	# DAYS	COMPLETION DATE
	Submit Complete Plan set for Building Permits	Milestone	Delwest Team	7/1/20	1	7/1/20
	Receive Building Permits	Milestone	CC Staff	9/15/20	1	9/15/20
CLOSING ON RESIDENTIAL PARCELS PER PSA	ACTIVITY	CATEGORY	ASSIGNED TO:	START DATE	No. OF DAYS	COMPLETION DATE
	Outside Closing Date	Milestone	CCURA/Delwest Team	04/01/20	1	04/01/20

Questions?

