

CLEVELAND PUBLIC LIBRARY  
Minutes of the Special Board Meeting  
August 29, 2016  
Trustees Room                      Louis Stokes Wing  
12:00 Noon

Present: Mr. Seifullah, Mr. Corrigan, Ms. Rodriguez,  
Mr. Hairston

Absent: Ms. Butts, Mr. Parker

Ms. Rodriguez called the meeting to order at 12:10 p.m.

Resolution To Approve Development Agreement for Martin  
Luther King, Jr. Branch

Ms. Rodriguez moved approval of the following  
resolution. Mr. Seifullah seconded the motion, which  
passed unanimously by roll call vote.

WHEREAS, On September 15, 2015, this Board authorized  
the Executive Director, CEO or his designee and the  
Chief Legal Officer to negotiate a development agreement  
and sales agreement with UC City Center LLC ("UC3") for  
the construction of a new Martin Luther King, Jr.  
("MLK") branch in exchange for the Library's existing  
MLK branch; and

WHEREAS, The Cleveland Public Library and UC3 have  
negotiated a Development Agreement (the "Agreement")  
which an authorized member of UC3 has signed, and which  
is on file with the Secretary of this Board; and

WHEREAS, The Agreement contains the following pertinent  
terms:

- 1) UC3 will contribute Five Million Two  
Hundred Thousand Dollars (\$5,200,000) to  
the Library toward the cost of a new MLK  
Library branch, guaranteed by an  
irrevocable, unconditional, automatically  
renewable, and clean standby letter of  
credit naming the Library as beneficiary,  
and from which the first \$5.2 Million of  
the Library's hard and soft costs shall be  
paid; and

RESOLUTION  
TO APPROVE  
DEVELOPMENT  
AGREEMENT  
FOR MARTIN  
LUTHER KING,  
JR. BRANCH  
Approved

- 2) The Library will be obligated to fund any and all amounts in excess of the Five Million Two Hundred Thousand Dollars (\$5,200,000); and
- 3) As soon as practicable after January 1, 2017, the Library will select an architect to design the new MLK branch according to the Library's specifications and subject to UC3's limited approval; and
- 4) The Library, with UC3's input, will select a construction manager at risk, and UC3 will act as the Library's agent during construction; and
- 5) UC3 will handle construction of the new MLK branch on land that UC3 will acquire on Euclid Avenue in the same block as the current MLK branch, and the new MLK branch will be at least 15,000 square feet; and
- 6) UC3 will provide 50 free parking spaces in a garage connected by a walkway to the Library, to be completed by UC3 within 16 months after completion of the new MLK branch, and until the garage is complete, will provide 50 free, parking spaces that are accessible to patrons without crossing streets; and
- 7) UC3 will allow the Library to operate the current MLK branch without interruption until construction of the new MLK branch is complete and the Library has completely relocated its operations to the new MLK branch; and
- 8) After the relocation to the new MLK branch, the Library will transfer the current MLK branch and underlying land parcel to UC3 in exchange for the new MLK branch, the underlying land parcel, and an easement for the 50 garage parking spaces; and
- 9) UC3 will retain the air rights above the new MLK branch in which UC3 may, with input from the Library, construct a building that

preserves the iconic nature of the new MLK branch; and

- 10) The Library may terminate the Agreement if any of the following events occur:
  - a) UC3 either fails to enter into an agreement with the City of Cleveland or for the purchase of the land for the new MLK branch by December 31, 2016; or
  - b) UC3 fails to complete the conditions to commencement of construction within UC3's control as outlined in the Agreement, within 18 months following the effective date of the agreement; or
  - c) UC3 terminates its agreement with the City of Cleveland prior to commencement of construction on the new MLK branch; and
- 11) UC3 will reimburse the Library for expenses incurred in connection with the new MLK branch, up to a maximum of Five Hundred Thousand Dollars (\$500,000) if the Library terminates the Agreement prior to construction; now therefore be it

RESOLVED, The Board of Trustees hereby approves the Development Agreement, and authorizes the Executive Director, CEO or his designee to execute the Development Agreement with UC City Center LLC for the construction of a new MLK branch as described in the Development Agreement and this Resolution, and to enter into and execute and deliver such other documents, agreements, deeds, and instruments as may be necessary or appropriate in order to effectuate the purpose of this Resolution and the requirements of the Development Agreement, subject to the approval of the Chief Legal Officer; be it further

RESOLVED, The Development Agreement will become effective upon acceptance by and delivery to UC3.

Joyce Dodrill, Chief Legal Officer, introduced Attorney Lee Chilcote, Chilcote Law Firm, and stated that since the last Special Board Meeting, the team has negotiated extensively. Ms. Dodrill introduced Steve Rubin, a representative of UC3, and stated that UC3 has agreed that the Library needed more to replace its

existing library. We asked for \$5.2 million and the last time we were before the Board on July 28<sup>th</sup> they had offered \$4 million. Since then, we have worked out an agreement where UC3 has agreed to pay \$5.2 million. However, it will be paid to the Library on a reimbursement basis. That will be secured by a Letter of Credit with probably Key Bank. We are satisfied and can be assured that expenses will be reimbursed. In the event that they are not able to make a payment, we are able to draw on the Letter of Credit. This will be an automatic renewable one-year Letter of Credit. If for some reason the Letter of Credit is cancelled for failure of payment, we will have the right, after receiving notice of cancellation, to draw on the Letter of Credit.

Ms. Dodrill stated that \$5.2 million will not pay for the entire cost of the building. It will pay for a 15,000 square foot building according to the estimate received from Higley. In the event that we want a larger building, the Library will be obligated to make up that difference.

In addition, the Developers have agreed to increase the amount for reimbursable expenses of the Library from \$400,000 to \$500,000. This would be paid to the Library in the event that the development agreement was terminated prior to construction of the library. There are conditions within the development agreement that must be met within 18 months. If those conditions are not met, then the Library has the right to terminate the agreement as does UC3. At that time the Library will be reimbursed up to \$500,000 for incurred expenses. There will be expenses at that time for a design architect. Under the Development Agreement we are under an obligation to commence the process for selecting a design architect after the first of the year. That date was selected as the City and UC3 still have to finalize their agreement. If that agreement is not finalized by the end of the year, we can terminate the agreement.

Ms. Dodrill stated that the other changes, as discussed at the last meeting, was that the Developers have requested the right to develop the air rights over our building, and we agreed to that. The Developers will ensure that any development over our building will preserve the iconic nature of the library and not interfere with the ingress and egress and the operations

of the library. In the event that there are any structural issues requiring our library design to support a building above the Library, the developers have agreed to pay the additional cost.

Ms. Dodrill noted that following technical change regarding the right to terminate. As previously mentioned, if certain conditions have not been met within 18 months, the Library has the right to terminate the agreement. However, the limitation on that is that the conditions would have to be within the Developers control. As an example, if within the 18 months, the Developers have failed to post the letter of credit, then the Library would have the right to terminate as that is within their control. If the Developers would be unable to secure a permit from the City, as another example, we would not have the right to terminate, as that is not within the Developer's control.

Mr. Hairston asked what was the timeline for getting final approval from the City including permits.

Ms. Dodrill stated that a timeline has not yet been determined. The agreement between the City and the Developers has yet to be finalized. The Library needs to hire a design architect, get plans for the building, hire a construction manager at risk, (the developer has agreed to be our agent for construction at the building), which will take an estimated 25 months. Construction could be completed in about two years after that.

Mr. Corrigan stated that it would be about four years until we have a new branch. We would pass one levy cycle and into the next one.

Ms. Rodriguez asked if the air rights limit us to one story.

Ms. Dodrill stated that the air rights are limited to whatever is above the structure as we have designed it.

Mr. Corrigan thanked Mr. Rubin for his commitment and the negotiation team for their work on this initiative.

Ms. Dodrill stated that the order of building has changed since it was originally proposed to the Mayor. Originally the Mayor said that the green space across

from Stokes Blvd. could not be constructed upon until there was construction in the area where our library is going to be located. Because of the way that the structure is now, the Developers are requesting to construct first on the green space. This must be taken to the Mayor and may have to go to City Council. This process could take a couple of months. There has been a request that our agreement be put into escrow for 60 days pending the decision of the City. We have had brief conversations with Mr. Rubin and our goal is to protect the Library from incurring any more expenses while that escrow arrangement is being worked out.

Mr. Seifullah asked that once the new branch is constructed what would become on the existing parking lot.

Mr. Chilcote stated that he believed that the existing parking lot at the existing branch will be constructed upon as part of the larger development. Parking for the new branch would be provided at nearby open lots until the garage is built.

Ms. Dodrill stated that there is a stipulation in our agreement that wherever the temporary parking is located, patrons would not have to cross the street to get to the library.

Mr. Rubin thanked Ms. Dodrill and Mr. Herman for their valuable assistance in this negotiation.

Mr. Rubin stated that the exchange will not occur until the new library is completed and the temporary certificate of occupancy is issued and approved for transfer by the Library. The architect selected by the Library will design the library. We have provided for the construction manager at risk which is what we had expected. The Developer, through the construction management agreement, will be responsible for entering into the construction management agreement but there are many conditions that allows the Library to participate in management of construction. Provisionally, we had a set of conditions where the developers would make major changes. Now, that has been changed so that both parties are mutually satisfied with going forward.

Mr. Rubin stated that we would be responsible for everything above the \$5.2 million with the first money

used on construction. CPL has the right to participate in managing construction. The new parking garage, easement of 50 spaces, as long as the new library exists and will continue with the successor owner operating with the understanding that UC3 would be able to charge the new owner under the most favorable rate offered to other users.

Mr. Rubin concluded and stated that he believes that the team has done its best with this negotiation and recommends the Board approve the resolution.

Mr. Hairston stated that if a special event were held at the branch on a weekend, 50 parking spaces would adequately accommodate attendees. He then asked if we would be charged for parking spaces above 50.

Mr. Rubin confirmed that we would be charged for over 50 spaces.

Director Thomas stated that those charges could be budgeted into the Library's programming budget.

Mr. Rubin stated that for special events, the branch manager could possibly work with the parking lot manager to work out an agreement on these occasion.

Ms. Rodriguez thanked Mr. Chilcote, Ms. Dodrill, members of the negotiation team as well as Mr. Rubin for their work on this agreement.

Ms. Rodriguez adjourned the Special Board Meeting at 2:05 p.m.

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Maritza Rodriguez  
President

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Thomas D. Corrigan  
Secretary