



CITY OF CONCORD

REPORT TO MAYOR AND CITY COUNCIL

FROM: Matthew R. Walsh, Director of Redevelopment, Downtown Services
& Special Projects

DATE: July 30, 2021

SUBJECT: Former New Hampshire Employment Security Property

Recommendation:

- 1) Accept this report;
- 2) Set the attached resolution authorizing the City Manager to enter into a Purchase and Sale Agreement Amendment with the John J. Flatley Company concerning the sale and redevelopment of the former New Hampshire Employment Security Property located at #32-34 South Main Street and #33 South State Street for public hearing on September 13, 2021;
- 3) Set the attached resolution appropriating the sum of \$150,000 from the Economic Development Reserve to compensate the John J. Flatley Company for removal of certain Asbestos Containing Materials ("ACM") at the former New Hampshire Employment Security Property for public hearing on September 13, 2021; and,
- 4) Set the attached resolution accepting and appropriating the sum of \$27,500 in supplemental Brownfields Grant funds from the New Hampshire Department of Environmental Services for abatement of hazardous building materials located at the former New Hampshire Employment Security Property for public hearing on September 13, 2021.

Background:

The former NH Employment Security Property is located at 32-34 South Main Street and 33 South State Street. The 0.74+/- acre property features a 26,000SF office building, constructed in 1927 and later expanded in 1958, as well as 73+/- on-site parking spaces.

On October 31, 2014, the City, in accordance with the provisions of RSA 4:40, acquired the Property from State of New Hampshire for the purposes of redevelopment.

On May 10, 2021, the City Council, by Resolution #9375, authorized the City Manager to enter into a Purchase and Sale Agreement with the John J. Flatley Company ("the Developer") concerning the sale and redevelopment of the Property.

The Developer plans to acquire the Property for the purpose of constructing a new 6 story, 80,000SF apartment building featuring 64 dwelling units. Once completed, the project will have an assessed value of \$8,000,000 - \$10,240,000, and shall generate \$215,000 - \$275,000 in property taxes annually.

Under the terms of the Purchase and Sale Agreement, the City, prior to Closing, is obligated to abate certain light ballasts / bulbs and Asbestos Containing Materials (“ACM”) associated with the former office building, as previously identified in a 2014 Hazardous Building Materials Survey. After Closing, the Developer will demolish the existing structure and construct its proposed project.

Discussion:

1) Additional ACM was discovered at the Property

Following the execution of the Purchase and Sale Agreement, during the course of preparation of bid specifications for the City’s abatement project, additional ACM were discovered at the Property. These materials were not previously identified in the Hazardous Building Materials Survey commissioned by the City in 2014 in conjunction with its acquisition of the Property from the State of New Hampshire.

Most of the newly discovered ACM is associated with the building’s blue exterior curtain wall, as well as other exterior doors and windows. Given these circumstances, it would be prudent to abate all exterior ACM simultaneously with the future demolition of the structure.

The City promptly informed the Developer of the additional ACM at the Property. Upon learning about these materials, the Developer informed the City that it would not proceed with its project until such time as the City and the Developer reached an agreement concerning abatement of these materials.

Following the discovery of these materials, the City contacted the consultant who prepared the 2014 Hazardous Building Materials Survey. The City anticipates that the consultant will cover the cost of removing the additional ACM.

2) Purchase and Sale Agreement Amendment: Given the ACM issue, the Purchase and Sale Agreement with the John J. Flatley Company must be amended, as set forth herein. All other terms and conditions, including price, will remain unchanged.

a. Asbestos Abatement:

- i. City: The City shall complete abatement of all interior Asbestos Contaminated Material (ACM) at the Property, as identified in the 2014 Nobis Engineering HBM Survey and 2021 supplemental survey, prior to Closing.

The New Hampshire Department of Environmental Services has agreed to increase their Brownfields Grant from \$172,500 to \$200,000 (a net of \$27,500) to assist with the City with the additional ACM found at the Property.

With these additional grant funds, the City’s total budget for abatement of interior ACM, as well as light ballasts / bulbs, is \$410,000, of which \$200,000 is supported by NHDES grant funds.

- ii. John J. Flatley Company: The Developer shall abate all *exterior* Asbestos Containing Materials (AMC), as well as all other hazardous building materials at the Property. Abatement of these materials shall occur simultaneously with the Developer's demolition of the building after Closing.
- iii. As part of this arrangement, the City will provide the Developer with a \$150,000 payment at Closing to support costs of removing exterior asbestos abatement. It is anticipated that the consultant who prepared the 2014 Hazardous Building Materials Survey will provide this payment in full. However, in the short-term, should such payment be delayed prior to closing, said funds will be provided from the City's Economic Development Reserve on an interim basis.
- b. Schedule: The project schedule must be updated to account for delays associated with these issues. As of the date of this report, City Administration and the Developer were still in the process of refining the development schedule for this project. However, staff tentatively anticipates the new project schedule will be approximately as follows:
 - i. October 2021: City receives bids for interior ACM and light ballast abatement.
 - ii. November 2021: City completes its abatement project. Developer commences development permitting process.
 - iii. February 2022: Developer completes due diligence and permitting for Developer's Project. Expiration date for Seller's commitment concerning delay of posting notice of the initial public hearing for any potential zoning ordinance amendments affecting the Property.
 - iv. March 2022: Closing.
 - v. April 2022: Developer starts construction of its project, including abatement of exterior ACM abatement and demolition of the former office building.
 - vi. Summer 2023: Developer's project completed. *This date is unchanged from original P&S Agreement.*
- 3) Benefits to the Community: The benefits of the proposed strategy outlined herein are as follows:
 - 1. The project will move forward;
 - 2. The sale price and the Summer 2023 completion date for the Developer's project will remain unchanged.
 - 3. Due to additional grant funds, as well as anticipated funds from the consultant, there will be no additional costs to Concord taxpayers stemming from the additional Asbestos Containing Materials discovered at the Property, or the associated payment to the Developer related thereto.
 - 4. Once the project is completed, the community will receive a signature real estate development consisting of a new 6 story; 80,000SF building, with 64 apartment units, which expands the City's tax base by \$8,000,000 - \$10,240,000, and generates \$215,000 - \$275,000 in new property taxes annually.