



TO: Mayor Paul R. Soglin and Members of the Board of Estimates

FROM: Judge Doyle Square Negotiating Team

RE: Report to the Judge Doyle Square Negotiating Team

DATE: June 25, 2015

SUMMARY AND RECOMMENDATIONS

On May 19, 2015, the Common Council, with recommendations from the Judge Doyle Square Negotiating Team and the Board of Estimates, directed the Judge Doyle Square Negotiating Team to immediately engage JDS Development LLC/Exact Sciences in an exclusive negotiation of a preliminary development agreement and report back to the Board of Estimates with a report and draft agreement by its June 29th meeting.

Based on those negotiations, the Judge Doyle Square Negotiating Team recommends that the City enter into a development agreement comprised of the following key elements:

- Land use Elements
 - A 250,000 square foot corporate headquarters and research facility for Exact Sciences on Block 88 with a 107,000 square foot expansion site on East Doty/South Pinckney Street corner of Block 105.
 - A 210 - 250 room urban-style hotel on the East Wilson/South Pinckney Street corner of Block 105. JDS Development LLC agrees with the goal to achieve a 250 room hotel.
 - A 600 stall public parking facility to replace the Government East Ramp to be owned and operated by the Madison Parking Utility on Block 105, including 40 replacement stalls for municipal fleet parking to be displaced from Block 88.
 - A 650 stall private accessory parking facility to serve Exact Sciences and the hotel on Blocks 88 and 105. This ramp would be owned by the City of Madison Community Development Authority and leased to the developer for 27 years.
 - Retail uses at grade along South Pinckney Street including a bicycle center.
- Financial Terms
 - Private investment by JDS Development LLC of at least \$130 million.
 - City funding of the Government East replacement parking facility in the amount of \$19.2 million.
 - City capital funding for a Bicycle Center of \$1 million.

- Public investment in the JDS Development LLC/Exact Sciences development of \$42.5 million; comprised of:
 - Direct City financial support in the amount of \$12.0 million to Exact Sciences to retain and create 400 jobs at the Judge Doyle Square site by initial occupancy of the Block 88 office facility in July 2017.
 - City funding for the private accessory parking facility in the amount of \$20.8 million.
 - City financing for the land acquisition cost for the private development of \$9.7 million, the estimated fair market value of the land to be acquired for the private development on Blocks 88 and 105. Of that amount, \$4.3 million would be used by the Parking Utility for the incremental cost of undergrounding its parking stalls.
- Exact Sciences would provide a financial guaranty. The Negotiating Team has proposed a guaranty equal to the City financial support to discourage the relocation of the jobs retained and created at the Block 88 facility for a period of twelve years with an annual reduction in that guaranty, the details of which remain under discussion.
- JDS Development LLC would be required to guaranty the incremental property tax revenues from development on Blocks 88 and 105 sufficient to offset the tax incremental financing used to construct the private accessory parking on Block 105 (\$20.8 million). The details of this guaranty remain under discussion.
- The City would use TID 25 for construction of the private accessory parking and land acquisition costs.
- The City is considering using TID 45 for the Exact Sciences jobs-based TIF loan, pending a boundary amendment. However, there are limitations due to timing issues. Block 88 is in TID 25 and using TID 25 is seen as an appropriate approach if TID 45 is found to be unworkable.
- Other Terms
 - The transfer of Block 88 and 105 property rights to occur on September 1, 2015.
 - Site work to be initiated in December 2015 following the rezoning of the site by the City.
 - The Government East parking facility demolition will require that the facility be out of service for 17 months from March 2016 through July 2017. Temporary parking solutions will need to be provided.
 - Exact Sciences will commit to support diverse hiring through their existing relationship with the Urban League of Greater Madison, launching featured employer events twice a year around Exact Sciences' hiring cycles and summer internships.

RFP NEGOTIATING PROCESS TO ACHIEVE COMMON COUNCIL DIRECTIVES

The Common Council on February 3, 2015 approved the RFP document and the issuance of the RFP and directed the Board of Estimates to make the final selection and recommendations for the Common Council's consideration following the receipt of development proposals on May 1, 2015. The Judge Doyle Square Negotiating Team was directed to analyze the proposals and to report to the Mayor and the Board of Estimates throughout the process. The RFP specifies that the City may reject or accept proposals at its own discretion, and holds the right to independently negotiate the final terms of the project.

The Judge Doyle Square Negotiating Team is comprised of George Austin, Judge Doyle Square Project Director, Natalie Erdman, Interim Director of Planning and Community and Economic Development, Don Marx, Real Estate Manager, Matt Mikolajewski, Economic Development Director, Kevin Ramakrishna, Assistant City Attorney, David Schmiedicke, Finance Director, and John Strange, Assistant City Attorney.

The Negotiating Team has analyzed the RFP response from JDS Development LLC/Exact Sciences, and with oversight from the Mayor and the Board of Estimates, has negotiated with JDS Development LLC/Exact Sciences as directed by the Common Council on May 19, 2015. Ten negotiating sessions were conducted with JDS Development LLC through June 24, 2015. The Negotiating Team reported back to the Board of Estimates on June 8, 2015 for negotiating instructions and met with the Mayor on three occasions during this process for feedback and direction. In addition, JDS Development LLC and Exact Sciences made a presentation of their proposal to elected officials and the public on June 2, 2015.

A summary of the JDS Development LLC/Exact Sciences proposal is attached as Appendix A. The complete proposal can be accessed in its entirety on the Judge Doyle Square website at: <https://www.cityofmadison.com/planning/judgedoylesquare/gallery>.

PROJECT UNDERWRITING

Review of Project Risk - Exact Sciences Analysis

All development projects contain inherent risks that the City evaluates as part of its underwriting analysis. Of particular importance in the JDS Development LLC proposal is the relocation of a single business, Exact Sciences Corporation and its corporate office and research facilities to a 250,000 square foot office building on Block 88, with future expansion to a 107,000 square foot office building on Block 105.

On June 3, the Negotiating Team held a conference call with Brian Weinstein, a healthcare analyst with coverage in the diagnostics arena at William Blair & Company. He is the author of numerous reports on Exact Sciences (EXAS). Our purpose was to assess the company risk and the related project risk. Our discussion yielded the following points:

- Regarding acquisition risk, EXAS is not a candidate for acquisition for at least several years until it can prove the business model is returning the projected results. The fact that an acquisition of EXAS by another company would be a \$3.5 billion to \$4.0 billion transaction also reduces the likelihood of a take-over/acquisition in the near term.
- Regarding the prospects that the company will make a return on investment, the market for Cologuard is extremely large. There are 75 million people in the category and Cologuard is unrivaled for a non-invasive test. The company is rapidly adding sales force and William Blair projects 1.5 million tests in 2018 up from a projection of 121,000 in 2015. The biggest constraint to volume increases is broader private pay reimbursement coverage which could be enhanced by an A or B rating from the US Preventive Services Task Force later this summer/fall.
- EXAS is a very relevant company trying to own the gastro-intestinal testing area (research continuing on pancreatic, esophageal and lung cancer tests). The company poses low execution risk, has access to capital and the management team is very well regarded on Wall Street.

- Regarding the competitive risks, a blood-based test is not a threat to EXAS at this time. The clinical trials and the FDA review process can take several years and the early blood –based tests have produced significant number of false positives.

The Judge Doyle Square Negotiating Team believes the business prospects for Exact Sciences are very positive. To that end, the Negotiating Team has proposed that the transaction include a provision that Exact Sciences will guaranty that it will not relocate the 400 living wage jobs retained and created jobs for a period of 12 years. This is discussed further in the Jobs Based TIF and Project Financing sections of the Report.

Exact Sciences Jobs-Based TIF

The ability to capture the growth of Exact Sciences in a downtown location is a tremendous opportunity for the City of Madison. Exact Sciences would also be a welcome addition to one of our suburban neighbors. The City’s recently revised TIF Policy created a “Jobs Project” as a way to retain growing Madison employers within Madison who might otherwise consider a suburban location. The Negotiating Team recommends underwriting this project following the “Jobs Project” guidelines.

Exact Sciences fits many of “Jobs Project” guidelines found within the TIF Policy. It is a “Medical/Biotechnology” related company, which is one of the eligible industry sectors for this type of underwriting. Exact Sciences will create and/or retain living-way jobs as defined in MGO 4.20. The 2015 living wage in Madison is \$12.62/hour. At the lowest end of the spectrum, Exact Sciences pays \$13.46/hour; however, the average base salary range is between \$27.88 - \$39.90/hour. In addition, employees are afforded health, vision, dental, life, and disability coverage; along with an annual team bonus plan, 401K, and stock offering.

The job information provided to the Negotiating Team divides Exact Sciences jobs into three categories. The first is headquarter jobs, which are proposed to be located at Judge Doyle Square. The second are lab jobs, which will remain in the Town of Madison until the Town of Madison dissolves in 2022, after which the jobs will be in the City of Fitchburg. Finally, Exact Sciences has field positions located outside of the region. As of the 1st Quarter of 2015, Exact Sciences total employment was at 503, with 201 headquarter jobs. At the time of occupancy at Judge Doyle Square in 2017, Exact Sciences projects to have 1,310 positions, with 400 positions to be located at Judge Doyle Square. By 2023, the company projects a total of 2,000 employees, with up to 650 at Judge Doyle Square. The job information provided to the Negotiating Team divides Exact Sciences jobs into three categories. The first is headquarter jobs, which are proposed to be located at Judge Doyle Square. The second are lab jobs, which will remain in the Town of Madison.

For the purpose of underwriting this project, the JDS Negotiating Team only considered the positions to be located at Judge Doyle Square. Upon occupancy in 2017, this will be 400 positions, of which 201 are retained current positions and 199 are new positions to be filled before 2017. By 2023, the company expects a total of 650 positions at the downtown site.

These 400 to 650 Judge Doyle Square Exact Sciences positions will fall into one of three categories. The first is Research and Development, which includes scientists, engineers, clinical affairs, and software and systems development. The second is Operations, which includes facilities and equipment maintenance, logistics, manufacturing, and quality control. Finally, the facility will include Corporate functions such as finance, billing, human resources, legal, sales, marketing, and IT. The annual base salary range for all three of these job types is between

\$28,000 and \$145,000 plus the benefits noted above. The salaries of senior leadership are not included in this range.

The City's TIF policy requires that the amount of TIF assistance per position retained and created not exceed the standard used by the U.S. Small Business Administration (SBA), which is currently set at a maximum of \$65,000 per position retained or created. The JDS Negotiating Team is recommending a TIF Loan to Exact Sciences in the amount of \$12 million. Using the 400 position threshold upon occupancy, this would equal \$30,000 per position; well below the SBA maximum guideline. One could argue; however, that the \$20.8 million TIF contribution toward the private parking directly benefits Exact Sciences as well. Including both the \$12 million and \$20.8 million combined into the calculation would yield \$82,000 per position using the 400 position threshold. The Negotiating Team would look for an exception to TIF Policy to maintain 400 as the required position threshold.

Exact Sciences has agreed to the concept of a guaranty of the jobs-based TIF loan and the details of the guaranty remain under discussion. The Negotiating Team has proposed that Exact Sciences guarantee the 400 positions that are created and retained at the Block 88 facility not be relocated for a period of twelve years. For each year that Exact Sciences does not relocate any of the 400 jobs used to fulfill the jobs-based TIF loan test, its \$12.0 million guarantee would be reduced by \$1.0 million. As such, the guarantee would be fulfilled within 12 years. Exact Sciences has asked the City to consider a phase-in schedule for the jobs due to the Federal Drug Administration approval of the manufacturing spaces in the facility that must occur after completion and prior to occupancy of the manufacturing spaces. That approval can take up to a year to achieve.

Finally, it should be noted that Exact Sciences has committed to fostering a diverse workforce. Exact Sciences has already started to develop a partnership with the Urban League of Greater Madison to create a pipeline of potential hires through Urban League programs. Exact Sciences has committed to continuing these initiatives in the years ahead.

Public Parking, Private Accessory Parking and Bicycle Center

The RFP required that the City of Madison would own and operate the automobile parking and bicycle facilities to be constructed. The City planned to replace the 520-car Government East Ramp on Block 105 with 520-600 public parking spaces plus 40 spaces of municipal fleet parking that is currently located on Block 88. The RFP also stated that the City would construct the needed accessory parking required for the new development in the parking facility, and lease the parking required by the development to the private developer (RFP Requirement #3/Page 8).

Under the JDS Development LLC proposal, 1,410 to 1,540 parking stalls were proposed to be constructed in Blocks 88 and 105 as a component of the Phase I of the development. The Negotiating Team focused on the low-end of the parking numbers. It targeted 1.7 parking stalls per 1,000 square feet of office space as a ratio comparable to other recent office buildings in the downtown. The proposed Exact Sciences commercial space in the two proposed office buildings on Blocks 88 and 105 (357,000 square feet) would yield 600 stalls using this ratio. An additional 50 stalls dedicated to the hotel would also be provided, totaling 650 private accessory stalls. The Negotiating Team believes there is an opportunity to share parking among the uses given the typical demand pattern that will exist. JDS Development LLC has requested that with the physical parking reduction, that the City use its best efforts and cooperate in good faith with

JDS Development LLC to permit certain public stalls to be available on a reserved basis for use during certain peak periods of operation.

The Government East replacement ramp would be 560 stalls and the municipal fleet parking would be 40 stalls, for a total parking count of 600 public stalls. All the parking, both public and private would be paid for by the City. The Negotiating Team felt this scale of parking to be more consistent with the City's goals and within the financial parameters for funding from Tax Increment District 25.

Parking Utility – Replacement of Government East	560
City Fleet	40
Private Accessory	<u>650</u>
Total	1,250

Under the JDS Development LLC proposal, all of the parking, both public and private, would have been publically owned and the private accessory parking (originally 800 stalls) leased from the Parking Utility for \$40,000 per year. The proposed lease structure was unacceptable to the City and the Negotiating Team proposed that the private accessory parking (now 650 stalls) be operated by JDS Development LLC, thereby removing any operating burden from the Parking Utility and the inherent financial penalties of a below market rate lease to the Parking Utility. The structure and financial aspects of the parking transaction are described in the Project Financing section of this Report.

Based on discussions with the Parking Utility and Traffic Engineering staff, the ramp configuration as proposed in the RFP response poses multiple issues in regards to ingress and egress, circulation, and layout. Based on preliminary discussions with City staff and the development team, significant changes to the ramp design are underway that will be considered in the rezoning entitlement process to be undertaken later this year. JDS Development LLC/Exact Sciences will be required to undertake a transportation demand management plan as part of that process.

The RFP stated that the City of Madison would construct and own a bicycle center. This use will need to be planned in the next phase of design for the project. The City has projected \$1.0 million in capital cost for the center as part of the project financing. The operations of the center would be contracted out to a private entity.

Maintenance of Public Parking During Construction

The RFP stated the City's desire to maintain a significant amount of the existing public parking supply during the construction process (RFP Requirement #4/Page 8). The timeline to achieve the Exact Sciences relocation to Block 88 by July 2017 will require that the entire public and private accessory parking for Judge Doyle Square (1250 stalls) be built on Blocks 88 and 105 in the Phase I.

The Government East ramp demolition will commence in March 2016 and be out of service until the replacement facility is completed in July 2017, resulting in the removal of the public parking at the current Government East ramp for 17 months. Temporary parking solutions for commuters and the South Square retail and entertainment district users will need to be provided. Preliminary strategies to address the interim parking demand during construction include the following ideas to be pursued. A team will need to be formed to work on this issue and to have alternatives in place and communicated to the public before March 2016.

Evening and Weekend Options

- Direct users to other Parking Utility ramps/surface lots
- Work with privately owned parking such as Block 89 to accommodate additional parkers

Weekdays and Large Event Parking

- Investigate potential park and ride lots based on a survey of Government East users/Monona Terrace as to the market for a park and ride solution
- Potential locations to be investigated:
 - Alliant Energy Center (well-known location)
 - Truman Olson site (large site that the City owns on South Park Street)
- Contractors - The recent downtown construction boom may be driving more contractors to park in downtown ramps. If this is confirmed, could the City work with contractors on Judge Doyle square and other major downtown projects to a shuttle lot, freeing-up room for others in other City ramps?

Hotel

The RFP identified the City's target room count for the hotel to be 250 rooms in an urban mixed-use style hotel product that is a national brand (i.e. hotel flag with a national sales force and reservation system) and has many full-service hotel attributes without the full-service cost. The room block reserved for Monona Terrace should be as large as possible (RFP Requirement #8/Page 8).

The JDS Development LLC proposal included an urban style mixed-use hotel concept of 210 - 250 rooms at the East Wilson/South Pinckney Street corner of Block 105. The concept would integrate the hotel with the adjacent non-hotel amenities of retail, food, exercise and conference facilities. The plan did not include a selected brand and indicated that the brand "would be determined once the final plan and hotel program are defined. The City will be welcome to participate in this process." The RFP response included an outline of a proposed room block agreement and a summary of the initial discussions between JDS Development LLC and Marriott International, Starwood Hotels and Resorts Worldwide and Carlson Rezidor Hotel Group (Radisson). The proposal also included a conference center on the ground floor of the Block 88 office building as part of the proposal's "civic core". With the proposed civic core funding concept eliminated in favor of a jobs-based TIF approach for Exact Sciences, the civic core on the ground floor is being re-evaluated and the conference center use may become more focused to the needs of Exact Sciences.

Given the limited amount of time available, the details of the many hotel elements cannot be completed in the June time frame. To address this, the Negotiating Team proposed that the initial agreement include three areas of agreement: the location of the hotel on Block 105, the urban mixed-use style hotel as the product, and 250 rooms as the goal for the size of the hotel. JDS Development LLC agrees with this goal but isn't willing to change the range of 210-250 rooms from its proposal until further work is done on the project design.

As a second stage to follow the initial agreement, the City would engage JDS Development LLC in the selection of the hotel operator after which the hotel flag with a national sales force and reservation system would be determined. Opportunities for the future expansion of the hotel size would also be explored. These elements would be completed by December 2015 and would require City Council approval.

PROJECT FINANCING

The JDS LLC proposal for developing Blocks 88 and 105 envisions a total project cost of between \$186 million to \$203 million, depending on a number of factors, including the overall number of parking stalls. City negotiators have been focusing on the lower end of this range by proposing a total of 1,250 parking stalls (560 public stalls to replace Government East, 40 City-owned stalls to replace surface parking that is currently on Block 88, and 650 stalls for the private development).

JDS LLC proposes bringing \$46 million of equity and \$91.7 million of debt, for a total private contribution of \$137.7 million. Some of this equity is in the form of a transaction under federal tax law, known as a 1031 transfer, where proceeds from the sale of an asset need to be reinvested in a new asset, in this case the land value of Blocks 88 and 105, by September 1, 2015. For purposes of this discussion, it is assumed that the developer will be able to secure the equity and debt components of the project financing.

For the public components of the project, the table below explains the sources and uses of financing. The Negotiating Team envisions two primary sources of public funding – parking utility reserves and tax incremental financing. Parking Utility Reserves currently total over \$26 million and are sufficient to finance the cost equivalent to replacing the Government East ramp with an above ground ramp. As allowed under a recent change to the state’s TIF law, TIF revenues will be used to finance the added cost of locating those parking stalls underground, through the sale of the Parking Utility air and subterranean rights on Block 105. The TIF support will come from Tax Increment District (TID) 25. A third source of financing will come from the City, whether through general obligation debt or other sources, to finance the 40 parking stalls for City vehicles as well as a bicycle center. The anticipated cost for the 40 parking stalls is \$1.3 million and the bicycle center is \$1 million.

TIF proceeds will also be used to indirectly finance the acquisition of Blocks 88 and 105 from the City and Parking Utility, respectively. City staff estimates a total fair market value for the two blocks of \$13.1 million (see table below). This reflects a per square foot value of \$150, which is comparable to other land sales in the downtown area. Of this \$13.1 million, \$8.3 million is associated with those portions of the air rights that will be occupied by the private development. The remaining \$4.8 million is associated with the structured parking (air and subterranean portions). The structured parking allocation includes \$2.3 million (48%) that is associated with the Parking Utility and City Fleet portions of the structure. As such, that portion of the air and subterranean rights will be retained by the City for parking and will not be sold for development. Of the \$10.8 million of proceeds that will be received for air and subterranean rights (\$13.1 million less the \$2.3 million of land value that will be retained by the City), \$4.5 million will accrue to the Parking Utility and \$6.3 million will be paid to the City.

	Block 88		Block 105		Total
Size	41,950		52,448		94,398
Value	\$6,292,500		\$7,867,200		\$14,159,700
Assumed Demo	\$0		-\$1,000,000		-\$1,000,000
Assumed Value	\$6,292,500		\$6,867,200		\$13,159,700
Value PSF	\$150		\$150		
Cubic Volumes					
Structured Parking	1,594,100	21.84%	4,615,424	50.57%	
Private Development	<u>5,705,200</u>	78.16%	<u>4,510,528</u>	49.43%	
Total Cubic Feet	7,299,300		9,125,952		
Value Allocation					
Structured Parking	\$1,374,224		\$3,473,067		\$4,847,291
Private Development	<u>\$4,918,276</u>		<u>\$3,394,133</u>		<u>\$8,312,409</u>
Total Value	\$6,292,500		\$6,867,200		\$13,159,700
Parking Utility Share			\$6,867,200		\$6,867,200
City Share	\$6,292,500				\$6,292,500
Parking Utility Share Retained			(\$2,326,700)	48%	<u>(\$2,326,700)</u>
Net Value Paid to City and Parking Utility	\$6,292,500		\$4,540,500		\$10,833,000

The reason that the use of TIF for land acquisition is indirect relates to the way the developer is bringing its equity to the project. In order to complete a legal transaction under section 1031 of the Internal Revenue Code, the developer's equity partner will purchase the City's land on the entirety of Blocks 88 and 105 for \$15 million. Of that amount, \$1.1 million is the developer's direct contribution to land. From these proceeds, the City will retain a total of \$10.8 million for the fair market value of the land (as described in the preceding paragraph). However, the private financing of the project relies on the equity from the 1031 transaction, net of the developer's direct contribution of land. This amount is \$13.9 million (\$15 million less \$1.1 million).

As such, in order to convey \$13.9 million back into the project, the following will need to occur in the City's 2016 capital budget:

- The City will make an appropriation of \$4.2 million to the project from the proceeds paid to the City for its land (\$15 million paid by the developer for land acquisition, less \$10.8 million that the City will retain based on fair market value).
- The City will make an appropriation of \$9.7 million from TID 25 proceeds (\$10.8 million fair market value for City land, less \$1.1 million net equity proceeds paid by developer for land acquisition). This represents a TIF grant to the development which is equivalent to the fair market value of City land, as required under the RFP. Payment of these funds will be subject to approval of a project plan amendment to TID 25 by the Joint Review Board.

Uses		
Parking		
Government East Replacement -- 560 stalls (@\$23,333 per stall)	\$	13,066,480
City Fleet Parking Replacement -- 40 stalls (@ \$32,000 per stall)		1,280,000
Underground Increment for GE (@\$32,000 / stall)		4,853,520
Additional 650 Stalls (@ \$32,000 / stall)		20,800,000
	\$	40,000,000
Land Acquisition		
Block 88 Land Value		6,292,500
Block 105 Land Value		6,867,200
Block 105 Land Value Attributed to Parking Utility (48% of structured parking)		(2,326,700)
	\$	10,833,000
Exact Sciences Job Incentive TIF Support		12,000,000
	\$	62,833,000
Bike Center		1,000,000
	\$	63,833,000
Sources		
Parking Utility Reserves / Block 105 Land Acquisition Proceeds	\$	17,920,000
City Contribution for Fleet Parking		1,280,000
TID 25 Contribution to Parking		20,800,000
Total Parking	\$	40,000,000
City Contribution for Bike Center		1,000,000
Developer Contribution to Land Value (net of equity contribution via 1031 transaction)		1,063,000
TID 25 Contribution to Land Value		9,770,000
TID Increment from Exact Sciences Phase I		12,000,000
	\$	63,833,000

Tax Increment Financing and Increment Guarantees

As the table above shows, approximately \$42.5 million is provided from tax increment district revenues toward the project. This includes \$12 million in a jobs-based TIF loan to Exact Sciences, \$9.7 million for land acquisition for the development, and \$20.8 million for parking needs associated with the development.

The development is within TID 25. TID 25 has been in existence since 1995 and has an estimated cash balance of \$25 million, and a surplus net of future commitments of \$19.5 million, at the end of 2014. Under state law, TIDs generally have a total life span of 27 years and an expenditure period of 22 years. As such, TID 25 can incur expenses until September 2017.

Block 88 Development

Under the developer's proposal, an office building and one floor of underground parking building will be constructed on Block 88 adjacent to the back of the Madison Municipal Building. In order to close a financing gap for those structures, a \$12 million jobs-based TIF loan would be

provided based on the estimated net present value of the incremental revenues that would be generated by property taxes on the estimated \$53.5 million of property value associated with the Block 88 development.

In lieu of an increment guarantee, the developer has proposed a job retention guarantee by Exact Sciences equal to the amount of the TIF loan. As presented in the Jobs-Based TIF section, the Negotiating Team has proposed that for each year that the Exact Sciences doesn't relocate the jobs that were created and retained in the Block 88 facility, its guarantee would be reduced by \$1 million. As such, the guarantee would be fulfilled within 12 years. In the event that Exact Sciences relocates jobs, it would repay the balance of the guarantee (e.g., if Exact Sciences and the jobs leave in year 7, it would repay \$6 million). The details of this guaranty remain under discussion.

Block 105 Development

Under the developer's proposal, an office building and a hotel will be constructed on Block 105 over the next several years. The first phase of development on the site would be an underground / above ground parking structure. The parking structure would consist of 1,250 stalls (a portion of which will be located on Block 88), distributed as follows:

Parking Utility	560
City Fleet	40
Private Development	<u>650</u>
Total	1,250

Of the estimated \$40 million cost for the parking structure, the portion that supports the private development would be financed from TID 25, at an estimated cost of \$20.8 million. TID 25 would also support the cost to acquire land for the private development, with a total estimated cost of \$9.7 million -- \$6.3 million for Block 88 and \$4.5 million for Block 105 (total estimated value of \$6.8 million, reduced by \$2.3 million of value that would be retained for publicly-owned parking), less a net of \$1.1 million paid by the developer from its equity contribution through the 1031 transaction. The land value on Block 105 paid by TID 25 would accrue to the Parking Utility, which would in turn apply the proceeds for the incremental cost of placing its 560 parking stalls underground.

The land acquisition and public parking costs financed from TID 25 are considered public infrastructure. The projected increment for development on Block 105 to support the \$20.8 million to finance parking related to the private development would be guaranteed by the developer using increment from development on Blocks 88 and 105. Total estimated property value includes the \$53.5 million on Block 88 that would be on the tax roll by 2018 and \$50.4 million of property value on Block 105 that would be on the tax roll by 2023. Based on the City's typical underwriting assumptions, this cost would be repaid in approximately 11 years from the time the entire Block 105 development would be completed.

Since TID 25 is scheduled to close in 2023 or 2024, depending on the City's decision to exercise its ability under state law to use an extra year of TID increment for affordable housing, funds expended for the private development will be considered an advance of increment revenues that have accumulated over the past several years. As with all TIF loans, the developer will be required to guarantee that the projected incremental property tax revenues associated with the project value will occur. If those revenues fall short of estimates, the developer will make up the difference over some span of time. If the revenues exceed those

estimates, then the increment guarantee will be retired sooner. Given the City's historic reliance on conservative underwriting assumptions for calculating incremental property tax revenues, it is anticipated that the risk of exercising the developer guarantee will be very low, assuming the project is developed as planned.

Due to the fact that the Block 88 incremental revenues will be included in the guarantee for the contribution to the parking structure, it is possible that the projected Block 105 incremental revenues might not be necessary to retire the \$20.8 million parking contribution. This removes an incentive for the developer to fully implement its plan for more office space on Block 105. As such, the Negotiating Team also recommends that the developer be required to begin construction of office space on Block 105 by 2022, or that development right will be forfeited to the City.

City TIF Policy calls for the developer to make a personal or corporate guarantee of the incremental revenues. In other words, the developer makes a commitment that it has sufficient assets to ensure that any shortfall in incremental revenues used to support the TIF subsidy will be repaid. The developer has proposed a guarantee through JDS Development LLC based on a net worth test with a maximum of \$10 million and remains under discussion. This is not full assurance as is required in most City TIF loan covenants and the details of the guaranty remain under discussion.

TID 25 Issues

Under the proposed development agreement, TID 25 would finance the following costs:

Land Acquisition for Private Development (indirectly through grant to project)

Block 88	\$6.3 million
Block 105	<u>\$4.5 million</u>
Subtotal:	\$10.8 million
Less Net Developer Payment for Land	<u>(\$1.1 million)</u>
TID Proceeds for Land Acquisition	\$9.7 million
Jobs-Based TIF Loan to Exact Sciences	\$12.0 million
Parking for Private Development	<u>\$20.8 million</u>
Total:	\$42.5 million

In addition, the City has been engaged in discussions with the Madison Metropolitan School District regarding a promissory note that the City would hold as an investment in order that MMSD can receive an amount of funds equivalent to its share of the uncommitted balance in TID 25 as of December 31, 2014. That balance and the relative shares to each taxing jurisdiction are shown below:

Madison Schools	\$9.3	47.6%
City of Madison	7.1	36.5%
Dane County	2.3	11.6%
Madison College	0.7	3.7%
State of Wisconsin	<u>0.1</u>	0.7%
	\$19.5	

If the entire property value of the development is in TID 25, anticipated unallocated incremental revenues, based on the City's TIF underwriting assumptions, are expected to total \$62 million

through 2023 (maximum statutory life without a one-year affordable housing extension). This estimate assumes that the Exact Sciences building value is on the tax roll by 2018, that the hotel is on the tax roll by 2019, and that the remainder of the development is on the tax roll by 2023. If that timetable is not achieved, then incremental revenues may be less than forecast. Mitigating that possibility is the fact that the City uses conservative mill rate assumptions (mill rate declines 2% annually). If the mill rate stays constant, more incremental revenues will be received than estimated.

Total costs for this development from TID 25 are expected to reach \$42.5 million, including the jobs-based TIF loan. The difference between unallocated revenues and Judge Doyle Square development costs are \$19.5 million. This is equal to the \$19.5 million anticipated balance on December 31, 2014. If projected tax rates or property values for the project are higher than currently estimated, then the balance in TID 25 will increase commensurately. If they are not, then the school district will receive some amount less from TID 25 than what was loaned through the promissory note. The City and the school district continue to work on the overall amount of the promissory note, its timing and assurance issues regarding the remaining balance in TID 25 at closure.

Exceptions to the “City of Madison TIF Loan Underwriting Policy”

The JDS Negotiating Team is requesting the following exceptions to the City’s TIF policies (TIF Policy in italics).

1. Section 1 Sub 7 – 55% Gateway

Reference section 3.1(7) of the TIF Goals, Objectives and Process exceptions below.

2. Section 1 Sub 8 – C – 3 – A (p. 3)

“..... shall not exceed 60% of the net present value of tax increments generated by the Employer’s project.”

The project will use 100% of the net present value of tax increments.

3. Section 1 Sub 8 – C – 3 – c

“Developer shall guaranty that tax increments are sufficient to recover the Jobs Project TIF Loan from the date of loan disbursal to Employer “

Developer will not provide an increment guarantee on the Jobs Project TIF. However, Exact Science would provide a stronger jobs guarantee than policy requires.

4. Section 1 Sub 8 – C – 4 – Gap Analysis Waiver

The City is aware that Exact Sciences is exploring options outside of the City of Madison, which would justify a Gap Analysis Waiver; however, the City has not received documented evidence to this effect.

5. Section 1 Sub 9 – TIF Underwriting Criteria

TIF Staff has not reviewed the proposal in order to make a recommendation on the project due to accelerated timeframe.

6. Section 1 Sub 10 – Equity Greater, Equal to TIF

“TIF assistance shall not exceed the amount of equity provided by the Developer.”

The Sources and Uses outlined in the JDS proposal indicate \$45,980,000 of equity, which would exceed the amount of TIF assistance provided to the developer. However, the Developer has not submitted information to establish that equity is greater than TIF assistance.

7. Section 1 Sub 11 – No Rent or Sale Price Write-Down

“TIF assistance will be limited to the amount necessary to make a project competitive with other similar projects in the Madison metropolitan market area.”

Based on information provided from developer, it has been suggested that Exact Sciences would pay a lease rate that is higher than what the company would need to pay in a suburban location, but lower than a comparable downtown space.

8. Section 1 Sub 14 - Guaranty

“The City will require a personal guaranty of increment, sufficient to recover the City’s debt service on City-financed TIF loans.”

Developer will not provide a personal guarantee, but will provide a corporate guarantee. Policy permits a corporate guarantee if the guarantee provides adequate security.

Developer’s corporate guarantee would come from a single purpose LLC and its liability for increment deficit would be capped at \$10.8 million instead of the full increment value of \$20.8 million on the Block 105 portion of the project. In exchange, Developer proposes to guarantee \$10.8 million of increment above the City’s projections.

Exceptions to the “City of Madison TIF Goals, Objectives, and Process

1. Section 2.4 Tenant-Shifting Office Development

“The City may consider providing TIF to retain an employer within the City or to accommodate an employer’s expansion. The City will seek to avoid providing TIF to relocate an employer within the City.”

Exact Sciences is already located in the City of Madison, but plans a significant expansion which would likely require City assistance regardless of location.

2. Section 3.1 Sub 2 – TIF Application Without an Existing TID

“Developers seeking TIF assistance for development on a parcel or parcels that is not located in a TID boundary, and requires either amendment or creation of a TID as part of their request for TIF assistance should ideally apply for TIF and land use approvals by

April 15. Applications for TIF after April 15 will be considered, but may bear additional risk for the developer because a TID may not be created in time.”

Providing TIF assistance to Exact Science requires both certification of TID 45, and subsequent amendment of its boundary which will not be certified until April of 2017. Developer has requested that the City guarantee that the TIF assistance be injected into the project by January 1, 2017 (prior to amendment certification) in order to avoid additional risk to the project.

The Negotiating Team expects to move the date until after certification.

3. Section 3.1 Sub 3 (p. 3)

“The TIF application shall be submitted to the TIF Coordinator. The TIF Coordinator, in consultation with appropriate City staff, shall make an initial review of the TIF application based upon the City’s adopted TIF Underwriting Policy and the adopted TIF Goals, Objectives, and Process”

Due in part to the accelerated time frame for negotiations, no TIF application was submitted and the developer has not provided sufficient information to constitute a TIF application.

The final numbers are based on the work of the Negotiating Team exclusively.

4. Section 3.1 Sub 4 (p.3) - Application Documents

As noted above, the standard TIF application documents were not used. Rather, the Negotiating Team requested the information that they needed to advance discussions regarding TIF assistance.

5. Section 3.1 Sub 5 (p. 3) - TIF Team

As noted above, the Negotiating Team led the discussion regarding TIF assistance due to the nature of the negotiation timeline and the role of the Negotiating Team in carrying out the Common Council’s directive.

6. Section 3.1 Sub 6 (p. 4) - Application Fee

No application has been submitted, and, as a result, no application fee has been submitted in accordance with MGO 4.28.

Note, however, that the developer did not request TIF assistance specifically in the RFP. The use of TIF was determined to be the appropriate funding source by the Negotiating Team. Under the circumstances, the fee could be waived.

7. Section 3.1 Sub 7 (p. 4) – Term Sheet

“Requests for TIF assistance that request more than 55% of the Net Present Value of the increment generated by that project will require approval from the Board of Estimates prior the completion of a term sheet.”

The project will require more than 55% of the Net Present Value of the increment generated and has additional exceptions to policy. Given that a term sheet has not been signed, and the time sensitive nature of the project, the JDS Negotiating Team requests a waiver of the requirement for a separate Board of Estimates meeting prior to completing a term sheet.

OTHER PROVISIONS

Real Estate - Order of Conveyance

JDS Development LLC is bringing about \$15 million in equity to this transaction as part of a 1031 tax exchange which needs to be completed by September 1, 2015. Ultimately, the project only requires that the Developer own half of Block 88. However, the City cannot subdivide Block 88 before September 1, 2015. In order to meet the deadline for the equity investment, the City will have to transfer the entireties of both Blocks 88 and 105 to the developer and the developer can record the certified survey map (CSM) that's necessary to subdivide the blocks. The City and Parking Utility respectively will retain ownership of the structures through ground leases with an annual rent payment of \$1. In order to protect the City's assets, reversionary interests will be placed on the ground leases and the deeds in order take the property back if the project does not commence by a certain date. No encumbrances on the title will be allowed during this interim period.

A condo plat will then be recorded by the developer as the real property owner. The CDA will buy back condos for the parking portions of the project and construct the parking through public bidding. The CDA will then sell the public portion of the parking to the Parking Utility and lease the private portion to the Developer.

September 1 Property Transfer

1. City sells Block 88 and subterranean parcel under Pinckney to JDS Holding
2. Parking Utility sells Block 105 to JDS Holding
3. MMB and Government East will be owned and operated on ground leases.
4. Each deed and ground lease will be subject to reversionary interests held by the City with provisions that will cause automatic reversions in the case that the deal does not happen by a certain date. This portion will be handled by outside counsel.

Final Closing on Financing and Land (Estimated December 2015)

1. JDS Holding records 3D CSM for subterranean parcel
2. JDS Holding will record CSM for Block 88.
3. Condo plat will be recorded immediately after CSM as part of final closing.
4. JDS Holding will convey Public Parking Condo (600 spaces) and Private Parking condo (650 spaces) to CDA at final closing.
5. JDS Holding will convey deed to MMB parcel to City of Madison.

Post Construction Transfers (Estimated July 2017)

1. Upon issuance of certificate of occupancy, CDA conveys Public Condo to parking utility

2. Upon issuance of certificate of occupancy, CDA leases Private Parking Condo to JDS entity. Lease will include a negotiated payment of rent to the CDA with will in turn be passed on to the City as a PILOT.

Bidding Processes

The CDA is subject to the public bidding requirements. As owner of the parking condos, the construction of the parking must be completed through the bidding process. However, the project calls for a hotel and possible Exact Science phase 3 to sit above the parking structure. In order to ensure that the buildings atop the parking will have proper support structures, the design of the ramp will be provided by the Developer with input from the Parking Utility. Additionally, oversight of the construction will be described in a Construction Management Agreement (CMA) that will be included as part of the Development Agreement.

Specifics of the CMA will be included in any contract with the winning bidder for the parking construction. This process resolves public bidding issues and provides the Developer the necessary control to ensure that private structures can be completed after the parking is complete.

Labor Peace

The RFP did not require labor peace, but it has been suggested that a labor peace agreement be signed by the hotel operator as would be consistent with the Hilton hotel at Monona Terrace.

The labor peace agreement is expected to follow closely the Hilton labor peace example. In that case, the LPA is broken into two parts: construction and operation.

For construction, the hotel developer is required to comply with City ordinances on affirmative action, non-discrimination, and prevailing wage. Due to changes in the law, the City would be able to require living wage under MGO 4.20, rather than prevailing wage.

The hotel operator is then required to pay living wage and certain benefits to full time employees. If the employees choose to be represented by a labor union, then the provisions of the collective bargaining agreement apply.

What is not included in the agreement, although should be expected for this hotel, is a non-strike provision.

Please note that such agreements do require that the City has a proprietary interest in the hotel development. Since the City is providing TIF for construction of the parking for the entire development, and because the hotel is a driver of increment generation in order to repay that investment to overlying taxing jurisdictions, the City should be viewed as having a proprietary interest in the hotel. Given that TID 25 is only open until 2022, any delay in bringing the hotel onto the tax roll would have an unusually significant impact on increment generation as compared to other projects.

Workforce Utilization

JDS Development LLC submitted an outline of the Workforce Utilization Plan/Targeted Business Goals as a component of the RFP response. They committed to prepare a construction and

permanent job compliance plan, an ongoing operations plan and a community outreach plan (Pages 102-105 of the RFP response). Further, JDS Development LLC has committed to meeting or exceeding the City's W/MBE goals for the project. In the final development agreement, those specific goals will be set with the assistance of the City's Department of Civil Rights.

In addition, Exact Sciences will commit to support diverse hiring through their existing relationship with the Urban League of Greater Madison, launching featured employer events twice a year around Exact Sciences' hiring cycles and summer internships. These commitments will be memorialized in the final development agreement.

MASTER SCHEDULE

Land Use Approvals and Subdivision

- Written Pre-Application Notices for Rezoning June 22, 2015
- Submittal to Landmarks Commission for Rezoning, Demo, CSM July 20, 2015
- Apply for Rezoning & CSM Approval July 22, 2015
- Submit to State Preservation Office July 27, 2015
- Landmarks Advisory Recommendation Aug 3, 2015
- State Preservation Office Approval Aug 27, 2015
- UDC Advisory Recommendation Sept 2, 2015
- Plan Commission Hearing Sept 21, 2015
- Common Council Action on CSM and Rezoning Oct 6, 2015
- Remove Conditions of Approval for Permits Dec 6, 2015

City Financial Participation and Land Sale

- Preliminary Development Agreement to BOE June 29, 2015
- Preliminary Development Agreement to Common Council July 7, 2015
- Review and Approval of the following by BOE and Council Aug 24, 2015
 - Development Agreement Sept 1, 2015
 - Land Sale & Land Lease Agreements
 - Preliminary TIF Runs
 - Timeline for TIF Plan Amendments
 - Timeline for Creation of a Redevelopment District
- 2016 Executive Capital Budget to Council Sept 1, 2015
- Sale of Block 88 and 105 to JDS Holding Sept 2, 2015
- Lease back Improvements to City and Parking Utility Sept 2, 2015
 - Lease to Include Reversion Provisions
- Board of Estimates Action on Capital Budget Sept 28, 2015
- Final 2016 Capital Budget Adopted by Council Nov 10-12, 2015
- Review and approval of the following by BOE and Council Nov 2015
 - TIF Agreements including Guaranties
 - Condominium Purchase and Sales Agreements
 - Hotel Operator and Franchise
 - Construction Management Agreement for Parking
- Closing on TIF and Condominium Purchase and Sale Dec 2015

Tax Increment District Approvals

- Proposed financing structure to taxing jurisdictions for discussion July 2015

- Submit TID #25 Project Plan Amendment Sept 1, 2015
- Approval of TID #25 Project Plan Amendment Nov 2015

Construction

- Demolition of MMB Annex* Dec 2015
- Commence Construction on Block 88 Dec 2015
- Block 105 Parking Ramp Closes** March 2016
- Commence Construction of Hotel on Block 105 April 2017
- Complete Construction of Block 105 Parking June 2017
- Complete Construction of Exact Sciences on Block 88 July 2017
- Complete Hotel July 2018
- Phase II of Exact Sciences TBD

*Detailed schedule for approvals necessary for demolition of the MMB Annex exist, but are not included here.

**The schedule for engineering and architectural documents needed to construct the parking has not yet been determined; however, review and approval of the construction documents, public bidding and construction contracts in accordance with City of Madison policies will need to occur by December 2015.

Respectfully submitted,

Judge Doyle Square Negotiating Team

cc: Common Council

APPENDIX A

JDS Development LLC/Exact Sciences May 1, 2015 Proposal

On May 1, 2015, JDS Development, LLC, a joint venture of the Hammes Company of Madison, WI and Majestic Realty of Los Angeles CA, proposed 580,200 square feet of development including a 250,000 square foot Corporate Headquarters and Research Facility on Block 88 and an additional 107,000 of office expansion space on Block 105 for Exact Sciences of Madison, WI. An additional 65,500 square feet for a food hall, health and wellness facility, lobby, conference center and broadcast studio/digital media center were proposed on Block 88. The proposal envisioned this component would be publicly funded.

A 210 to 250 room hotel and 16,700 square feet of retail, restaurant, lobby, and bicycle center was proposed for Block 105. A 1,410 to 1,540 stall parking facility is proposed primarily on Block 105 to replace the Government East public parking facility and to serve the new development.

The total project cost was estimated to be \$186.4 to \$203.2 million. The estimated cost of the proposed public elements of the project is \$55.6 to \$65.5 million. No public financing for the other private components of the project was proposed. The proposal can be found in its entirety on the Judge Doyle Square website at: <https://www.cityofmadison.com/planning/judgedoylesquare/gallery>.

