

OFFICE OF THE CITY MANAGER
DES MOINES, IOWA

CITY COUNCIL COMMUNICATION 96-382
SEPTEMBER 3, 1996 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
DEVELOPMENT AGREEMENT FOR AIRPORT BUSINESS PARK	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RICHARD CLARK DEPUTY CITY MANAGER

SYNOPSIS —

As part of the City's recent approval of an Federal Aviation Administration (FAA) grant for the Relocated Army Post Road, the City Council agreed to provide clear title to a 110-acre parcel which is contained within the Airport Business Park Development Agreement. The Development Agreement for the Airport Business Park is between the City of Des Moines and ABC Partners (Richard Margulies, et al). The City Council pledged to provide clear title the 110-acre parcel by not later than December 14, 1996.

In order to provide clear title to the 110-acre parcel, we have negotiated an amendment to the City's Development Agreement with ABC Partners. Our negotiation has resulted in the attached *Terms of Agreement* dated August 30, 1996. Also attached is a letter from ABC Partners confirming their acceptance of the Terms of Agreement. This Terms of Agreement embodies several key principles including the following:

1. The Terms of Agreement call for ABC Partners to:
 - a. relinquish the option to purchase the 110-acre *Airport Parcel* which is located north of the proposed Relocated Army Post Road;
 - b. commence an initial development on the remaining land as described in Exhibit II;
 - c. confirm the reservation of right-of-way for the proposed Highway 5;
 - d. Eliminate all other provisions of the existing Development Agreement—including those provisions requiring the City to install and specially assess public improvements; and
 - e. Purchase all of the remaining land pursuant to an installment payment plan contained within the agreement. The net present value of the savings to ABC of these installment payments is about \$500,000 without any cash payment from the City. The purchase price includes \$70,132 which is the pro-rated cost of a sanitary sewer that was extended several years ago by the City to serve this property.

2. The Terms of Agreement call for the City of Des Moines to provide tax abatement and tax increment benefits in a manner similar to the provision previously approved in principal by Council for nearby property being developed by AmerUs, Farm Bureau, and Knapp Properties. The tax increment district would be subject to a sunset provision of 15 years. (The provision of tax increment reimbursement grants could not extend beyond the 15-year period.)

FISCAL IMPACT —

No cash outlay (other than the tax increment reimbursements) or bond financing is required by the Terms of Agreement. Compensation to the developer for the elimination of the option is provided pursuant to the proposed tax increment benefits. The City will realize a payment of approximately \$1 million on the sale of land over a period of 15 years.

RECOMMENDATION —

It is recommended that Council express its intent to enter into an amended Development Agreement with ABC Partners consistent with the attached Terms of Agreement, and direct the City Manager and Corporation Counsel to prepare the necessary documents for final approval by October 7, 1996.

8/30/96

TERMS OF AGREEMENT
CITY OF DES MOINES AND ABC PARTNERS

The City of Des Moines and ABC Partners agree to amend the Development Agreement for the Airport Business Park dated March 19, 1990, to: eliminate the option to purchase the "Airport Parcel"; provide tax increment and tax abatement incentives for the balance of the property contained in the Development Agreement; stipulate purchase by real estate installment contract of the balance of the property by ABC Partners to be executed by September 23, 1996; and delete all other provisions of the current Development Agreement. All such amendments shall be included in an "Addendum to Development Agreement" to be hereafter approved and executed by the parties to this agreement.

The terms of this agreement are specified as follows:

1. The Airport Parcel is a parcel of land in the Airport Business Park containing about 110 acres located north of (and including) the proposed alignment of Relocated Army Post Road as described in Exhibit I. The option to purchase the Airport Parcel shall be eliminated upon the approval by the City Council of the urban renewal/tax increment district and urban revitalization plan as outlined below.

2. The balance of the property included in the Airport Business Park Development Agreement (approximately 155 acres less the right-of-way required for Relocated Iowa Highway 5 as described in Exhibit II) shall be designated as an urban renewal/tax increment district. Except as noted herein, the tax increment benefits for this property shall be provided generally in the same manner and subject to the same principles and guidelines as approved by the City Council on April 22, 1996 for the proposed Airport Commerce Park. More specifically, tax increment funds shall be provided as follows:

- a. Tax increment funds shall be provided in the form of reimbursement grants to the developer (ABC Partners) to pay the actual construction cost of all eligible public improvements (i.e., streets, sewers, water lines, street lights) required to develop the property installed subsequent to the establishment of the TIF. Public improvements will be installed by the developer.
- b. The amount of public improvement cost to be reimbursed through tax increment shall not exceed the estimated construction cost of the eligible public improvements as prepared by the developer and approved by the City Engineering Department. Reimbursement for a public improvement shall not be made by the City until the improvement has been accepted by the City.

- c. All financing of the public improvements shall be provided by the developer with a non-recourse provision in favor of the City of Des Moines. Tax increment reimbursement shall not include interest cost incurred by the developer.
 - d. Tax increment reimbursements provided by the City of Des Moines shall be limited to the tax increment revenues resulting from development of the land covered by the present Development Agreement, as amended (i.e., land owned by ABC Partners).
 - e. The tax increment district adopted pursuant to this agreement shall be subject to a sunset provision. The provision of tax increment reimbursement grants shall extend not more than 15 years. To the extent permitted by the Code of Iowa, the City shall, at the request of ABC Partners, extend the start date for the tax increment reimbursement grant, for a period of not more than three years after the approval date of the amended Development Agreement.
3. The property identified in Exhibit II shall be designated by the Des Moines City Council as an urban revitalization district, and the property shall be limited to receive three-year, 100 percent tax abatement on the improvements.

4. ABC Partners shall purchase from the City of Des Moines by real estate installment contract the balance of the property as described in Exhibit II, excluding any right-of-way needed for Highway 5 and relocated Army Post Road. All reasonable utility easements (temporary and permanent) required for public improvements will be provided to the City at no cost. The pro-rated cost of a sanitary sewer constructed by the City of Des Moines to serve this property (\$70,132) shall be included in the purchase price of the property. The total cost of this sanitary sewer was \$110,704, of which \$70,132 would be the pro-rated cost of the sewer for the property outlined in Exhibit II.

Based on the provisions of the existing Development Agreement, the purchase price for such property described in Exhibit II (including the cost of the sanitary sewer) is about \$8,443 per acre as of September 2, 1996. Assuming about 34 acres are retained for right-of-way for Hwy. 5, then the total purchase price will be about \$1,021,647. The total purchase price will vary depending on the amount of right-of-way required for Hwy. 5.

Upon execution of the amended Development Agreement, and adoption of the urban renewal plan, tax increment district, and urban revitalization plan as contemplated herein, ABC Partners will take possession and control of said parcels. Payments will be made to the City in accordance with the following schedule:*

<u>Year</u>	<u>Pymt. Amt.</u>
9/1/97	55,800
9/1/98	55,800
9/1/99	55,800
9/1/00	55,800
9/1/01	55,800
9/1/02	55,800
9/1/03	55,800
9/1/04	55,800
9/1/05	55,800
9/1/06	55,800
9/1/07	55,800
9/1/08	55,800
9/1/09	55,800
9/1/10	<u>296,247</u>
Total payments	1,021,647

* *The total purchase price, and accompanying installment schedule are estimates and are subject to verification. The total purchase price will vary based on the amount of right-of-way required for Hwy. 5 and any other public right-of-way. ABC Partners shall not be required to pay interest charges.*

Failure to make payments shall cause forfeiture of the real estate contract, and control of the property shall revert to the City, including any and all improvements, and shall cause the title to the property to remain with the City. Upon final payment, the City

shall immediately transfer title by special warranty deed. However, at any time, prior to September 1, 2010, ABC Partners may take legal title to a portion of the property so long as ABC Partners is current on its contract payments and the amount of contract payments previously paid to the City is equal to or greater than the per acre price multiplied by the total acres of the land to be conveyed. In the event the total amount of contract payments previously paid to the City is less than the amount required to take title, then ABC Partners may utilize an unconditional and irrevocable Letter of Credit for the balance, so long as the Letter of Credit is in a form and from an institution acceptable to the City. It is understood that unusable remnants shall not result.

ABC Partners is required to achieve a minimum development of at least 150,000 square feet of taxable building space with an assessed value of at least \$7,500,000 within 18 months after establishment of the tax increment district.

5. All provisions of the current Development Agreement, with the exception of those provisions outlined in this *Terms of Agreement*, shall be deleted from the agreement. It is understood that neither party to this agreement may make any claim against the other as compensation for deleting or modifying provisions of the current Development Agreement.
6. Upon approval by the City Council of the City of Des Moines and ABC Partners of this *Terms of Agreement* an amendment to the Airport Business Park Development Agreement embodying the terms and

conditions of this Agreement will be prepared and submitted for approval by the parties within 30 days. This amendment shall carry forth all provisions of this *Terms of Agreement*. However, it is understood that the urban renewal/tax increment and tax abatement provisions outlined herein cannot be provided until the City Council has adopted the necessary resolutions and ordinances in accordance with the Code of Iowa. It is the City's intention to approve the urban renewal plan, tax increment ordinance, and urban revitalization plan within 90 days after approval of these "Terms of Agreement." The elimination of the option to purchase the Airport Parcel (item #1 above) would take effect upon the adoption of the urban renewal plan, tax increment district, urban revitalization plan, and other provisions as outlined above.

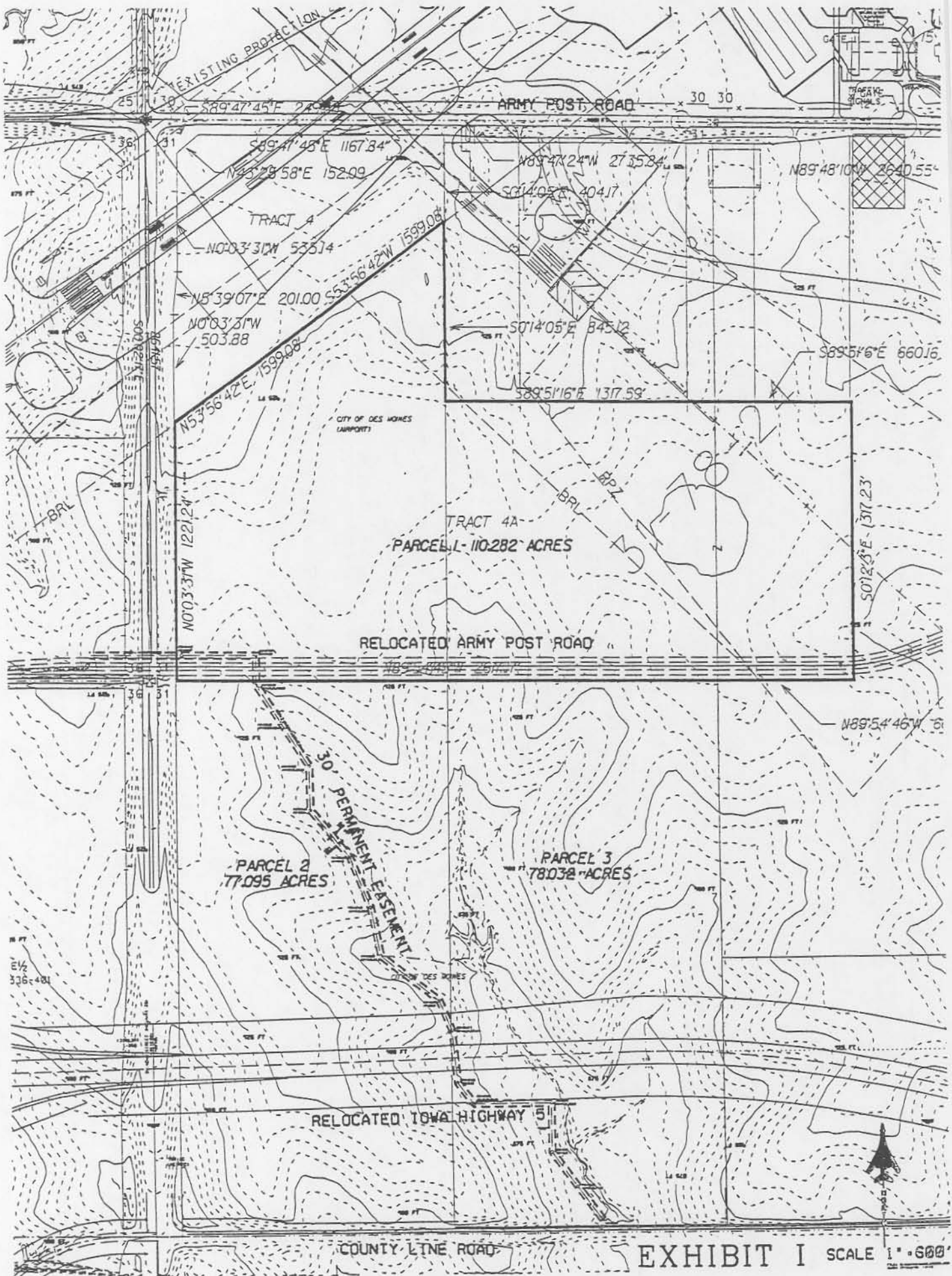
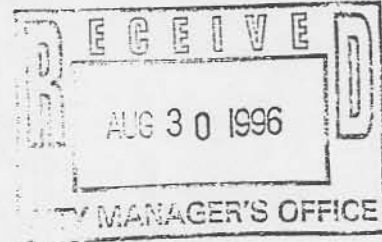


EXHIBIT I SCALE 1" = 600'

• ABC Partners, L.P. •

August 30, 1996

Mr. Richard Clark
Assistant City Manager
Office of the City Manager
City of Des Moines
East First and Locust
Des Moines, Iowa 50307



Re: Airport Business Center

Dear Rick:

This letter confirms that ABC Partners, L.P. agrees to the "Terms of Agreement - City of Des Moines and ABC Partners, L.P.", dated the 30th day of August, 1996, pertaining to the modification of the Development Agreement between the City and ABC Partners, L.P., dated the 19th day of March, 1990.

Sincerely,
ABC PARTNERS, L.P.,
by ABC DEVELOPMENT, INC.,
Its General Partner.

By:

A handwritten signature in dark ink, appearing to read "Richard B. Margulies". The signature is written in a cursive style with a large, sweeping "R" and "M".

Richard B. Margulies,
Treasurer