

Bill No. 7977-14

No. 01-14-OR

## AN ORDINANCE

An Ordinance, amending Ordinance No. 41-09-OR enacted November 17, 2009 approving the sale of certain real property owned by the County of Allegheny, Pennsylvania known as 3333 Forbes Avenue and identified as Block and Lot 28-J-97 to an ownership/development group for the sale price of \$4,900,000.00, for the purpose of restating the composition of the ownership group and the scope of the proposed development on the property.

**Whereas**, the County of Allegheny, Pennsylvania (the "County") is the owner in fee simple of certain real property located in the 4<sup>th</sup> Ward of the City of Pittsburgh, identified as Block & Lot Number 28-J-97 and known as 3333 Forbes Avenue, Pittsburgh, Pennsylvania 15213 (the "Property"); and

**Whereas**, by Ordinance No. 41-09-OR enacted November 17, 2009 (the "Ordinance"), the County was given authority to sell the Property to a then as yet unnamed development group then comprised of the following local real estate development firms: Massaro Properties LLC; Langholz Wilson Ellis, Inc.; and Kratsa Properties and local architecture firm Tasso Katselas Associates, Inc. (the "Development Group"), for the purchase price of \$4,900,000.00 (the "Sale"); and

**Whereas** it was contemplated at the time the Ordinance was enacted that the Development Group would demolish the existing building located on the Property and construct a new development thereon, which would have included a multi-use development limited to a hotel, an office building containing classroom space for Carlow University, and a parking garage which would also include retail space (the "Project"); and

**Whereas**, the County and the Development Group, which was subsequently organized and registered as MWK Forbes LLC, a Delaware limited liability company, entered into a sales agreement dated April 1, 2013 (the "Sales Agreement") reflecting the terms of the Ordinance including the scope of the Project as set forth in the Ordinance; and

**Whereas**, due to economic factors, the composition of the Development Group set forth in the Ordinance has changed so that MWK Forbes LLC, now consists in part of the principals of the aforesaid entities: David Massaro of Massaro Properties LLC; Gary Wilson of Langholz Wilson Ellis, Inc.; Tasso Katselas of Tasso Katselas Associates, Inc.; and such other participants/entities that may join the Development Group (hereinafter also referred to as "MWK") or that it may represent as an agent, as a result of current or future economic and financing considerations and opportunities; and

**Whereas**, it also was contemplated under the Sales Agreement that the Property would be subdivided into two parcels to accommodate separate aspects of the Project and to enhance

the financing therefore and that MWK would act as an agent for the owner of one of the parcels; and

**Whereas**, due to fluctuating economic and financing considerations and opportunities as well as the unavailability of some of the originally contemplated tenants or ownership participants, the Development Group has requested that the County grant it more flexibility in planning the scope of the Project so that the Project may include, but not be limited to or by, the construction of an office building, classroom space, a hotel, student housing, parking facilities and retail space or some combination of these uses; and

**Whereas**, the Council of Allegheny County deems it advisable to amend the Ordinance in order to provide the Development Group with flexibility not only in recruiting potential owners and/or investors but also to provide the Development Group with flexibility in planning, developing and financing the Project as aforesaid.

***The Council of the County of Allegheny hereby resolves as follows:***

***SECTION 1. Incorporation of Preamble.***

The provisions set forth in the preamble to this Resolution are incorporated by reference in their entirety herein.

***SECTION 2. Terms Defined.***

Terms used in the preamble to this Resolution are herein used as therein defined.

***SECTION 3. Authorization to Amend Ordinance No. 41-09-OR***

County Council hereby amends Ordinance No. 41-OR-09 to provide for the following:

- A. The Development Group shall be restated as MWK Forbes LLC, consisting in part of: David Massaro, Gary Wilson, Tasso Katselas and such other participants and/or entities that may join MWK Forbes LLC and those entities that MWK Forbes LLC may represent as agent, in order to purchase the Property as more particularly set forth in an Amended Sales Agreement as approved by the Allegheny County Department of Development and the County Law Department; and
- B. The scope of the Project shall be restated so that the Project may include the use of the existing building on the Property and generally, be intended to: (a) permit MWK to use the Property for two of the following three alternative uses: (i) a hotel, (ii) an office building, which may include classrooms, or (iii) a multi-family housing facility or an apartment-hotel (which can include apartments or units for occupancy by students and school related staff) and (b) a parking facility which

may partially consist of surface parking, together with related ancillary facilities such as restaurant and retail .

- C. The proper officials of the County are hereby authorized to, in the name of and for and on behalf of the County, execute and deliver an Amended Sales Agreement reflecting the restated and revised terms as authorized herein, as well as any and all contracts, agreements of sale, deeds, and/or other documents required to consummate the sale and convey the Property to the Development Group and/or the entity it represents for the purchase price of \$4,900,000.00, on terms determined as satisfactory to such proper officials; provided, however, that all such contracts, agreements of sale, deeds, and/or other documents shall be subject to review and approval by the County Manager and approval as to form by the County Solicitor.

**SECTION 4. Remaining Provisions of Ordinance No. 41-09-OR**

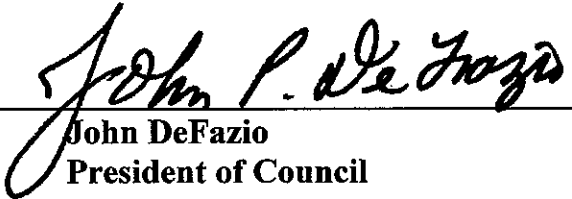
All other non-conflicting provisions of Ordinance No. 41-09-OR shall remain in full force and effect.

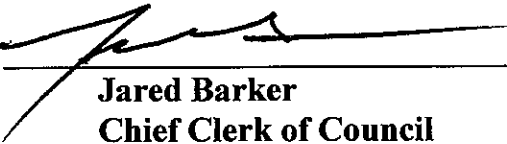
**SECTION 5. Severability. *If any provision of this Resolution shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Resolution which shall be in full force and effect.***

**SECTION 6. Repealer. *Any Resolution or Ordinance or part thereof conflicting with the provisions of this Resolution is hereby repealed so far as the same affects this Resolution.***

Enacted in Council, this 4<sup>th</sup> day of February, 2014


Council Agenda No. 7977-14

  
John DeFazio  
President of Council

Attest:   
Jared Barker  
Chief Clerk of Council

Chief Executive Office February 14, 2014

Approved:   
Rich Fitzgerald  
Chief Executive

Attest:   
Sonya Diez  
Executive's Secretary

SUMMARY OF LEGISLATION  
AMENDMENT of Ordinance No. 41-09-OR  
RELATING TO THE SALE OF PROPERTY AT 3333 FORBES AVE., PITTSBURGH, PA  
15213 SUBMITTED FOR COUNCIL MEETING JANUARY 14, 2014

On November 17, 2009 Ordinance No. 41-09-OR was enacted granting authority to the County to convey certain real property owned by the County and located in the 4<sup>th</sup> Ward of the City of Pittsburgh, identified as Block & Lot Number 28-J-97 and known as 3333 Forbes Avenue, Pittsburgh, Pennsylvania 15213 (the "Property"), to a then unnamed development group comprised of local real estate development firms: Massaro Properties LLC; Langholz Wilson Ellis, Inc.; and Kratsa Properties and local architecture firm Tasso Katselas Associates, Inc. (the "Development Group").

The authorized sale price for the Property was \$4,900,000.00, and the Development Group was required demolish the current structure [the old County Health Department] located on the Property and construct a new development consisting of a hotel, an office building (including classroom space for Carlow University) and a parking garage (including retail space).

Since then, due to fluctuating economic and financing considerations and opportunities as well as the unavailability of some of the originally contemplated tenants or ownership participants, the makeup of the Development Group [subsequently organized and registered as MWK Forbes LLC] has changed so that it now consists of David Massaro, Gary Wilson, Tasso Katselas and such other participants and/or entities that may join MWK Forbes LLC. Additionally, as a result of the aforesaid changing conditions, the Development Group requires more flexibility in developing the Property to insure the Project's success and financial viability by restating the definition of the Project so that it may include the use of the existing building on the Property and may include, two out of three of the following three alternate uses (i) a hotel, (ii) an office building or (iii) a multi-family housing facility or an apartment-hotel (which can include apartments or units for occupancy by students and school related staff) plus a parking facility that may consist, partially, of surface parking together with related ancillary facilities such as restaurant and retail .

The purpose of the proposed Amendment to the Ordinance is therefore to give the Development Group greater flexibility in obtaining ownership participants, financing and tenants with regard to: (i) the make-up of the development group; and (ii) the permitted development and uses of the Property.

The requested amendment does not change the purchase price of \$4,900,000, the M/W/D or public funding requirements contained in Ordinance No. 41-09-OR

**MEMORANDUM**

**OFFICE OF THE COUNTY MANAGER**

TO: Jared E. Barker  
Allegheny County Council

FROM: William D. McKain CPA  
County Manager

DATE: January 9, 2014

RE: Proposed Ordinance

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Attached is an Ordinance amending Ordinance No. 41-09-OR enacted November 17, 2009 approving the sale of certain real property owned by the County of Allegheny, Pennsylvania known as 3333 Forbes Avenue and identified as Block and Lot 28-J-97 to an ownership/development group for the sale price of \$4,900,000.00, for the purpose of restating the composition of the ownership group and the scope of the proposed development on the property.

The Allegheny County Law Department has reviewed this legislation prior to submitting it to Council.

I am requesting that this item be placed on the agenda at the next Regular Meeting of Council.

ALLEGHENY COUNTY COUNCIL

JAN 9 2014