**COMHAIRLE CHONTAE ÁTHA CLIATH THEAS
SOUTH DUBLIN COUNTY COUNCIL**



**MEETING OF SOUTH DUBLIN COUNTY COUNCIL**

**Monday, 14th June 2021**

**H-I 8 (a)**

**GC 234 Proposed disposal of lands to Lens Media Limited at Grange Castle West, Grange Castle Business Park Complex, Clondalkin, Dublin 22**

The Council at its meeting on 11th May 2020, agreed to dispose of 48 acres or thereabouts to Lens Media Limited at Grange Castle West for the development of a Studio and Media Park.

During the design process which followed on from this approval, it was established that Lens Media Limited required additional lands due to the constraints arising from lands along the Grand Canal edge not being fully developable. Following on from discussions with Lens Media Limited it has been agreed that they require an additional 8 acres or thereabouts totalling 56 acres or thereabouts to develop their proposed Media facility at Grange Castle West Business Park.

It is proposed that the additional lands will be provided by extending into the southern boundary of the site. This takes account of the undevelopable portion along the boundary with the Grand Canal at the northern edge of the site. The South Dublin County Development Plan 2016-2022 sets environmental and planning standards for development along the boundary of the canal that require development to be set back from the canal bank. The additional land proposed to be provided at the southern edge, addresses this requirement whilst accommodating the appropriate layout for the media park.

Following on from recent discussions and correspondence in relation to the above matters, I wish to confirm that the Chief Executive is prepared to recommend the disposal of lands totalling 56 acres or thereabouts at Grange Castle West Business Park to Lens Media Limited, in accordance with Section 211 of the Planning and Development Act 2000 and subject to the provisions of Section 183 of the Local Government Act 2001 by way of a 999-year Lease and subject to the following terms and conditions. This disposal if Agreed will supersede the previous disposal approved at Council meeting of 11th May 2020 and as set out in CE Order GC/11/20: -

1 (a) That the lands being disposed of in the first instance comprise approximately 56 acres or thereabouts. A formal disposal map shall be prepared in due course by the Council for inclusion with the legal documents but in the interim a draft plan for identification purposes only, Drawing No 17\_129 - CSE - GEN - XX - DR - C - 1192, is annexed showing the site outlined in red.

1. The Council will retain a 5-metre wayleave area along the boundaries of the site. These wayleaves will be required within the perimeter of the lands being disposed of to facilitate the existing and future servicing by the Council of this site and any other lands.
2. That the consideration due to the Council shall be calculated on the basis of the sum of €550,000 (five hundred and fifty thousand euro) per acre for the lands identified for disposal. For the lands subject to the constraints as set out in the South Dublin County Development Plan 2016 -2022 and therefore undevelopable, and which amount to circa 8.3 acres or thereabouts, an ameliorated rate of €137,500 (one hundred and thirty-seven thousand five hundred euro) per acre (the “Purchase Price”) will apply. An exact mapping of the applicable lands will be prepared. Should these lands, or any part thereof, be subject to commercial development at any stage, then the full value indicated above will become payable to South Dublin County Council in respect of the lands involved. The purchase consideration will be payable as described at (a) and (b) below: -
	1. 10% of the Purchase Price on signing and exchange of a Contract for Sale in respect of the site. Such amount to be refunded in the event that the development proposed for the site does not receive full planning permission, and/or in the event of any of the terms and conditions of the disposal not having been satisfied.
	2. 90% of the Purchase Price on the grant of the Master Lease which shall occur at the time and in the manner set out in term 13 below.
3. That the Council shall be entitled to charge interest at a rate of eight per cent (8%) per annum on any outstanding sums in the event of failure by Lens Media Limited to pay the foregoing sums on the above dates. This interest rate penalty shall be calculated on a daily basis for any period of time deposits are outstanding without cause.
4. That utility services infrastructure providing for energy, water, wastewater and fibre installation (responsibility for which rests with Lens Media Limited) are provided to the boundary of the site. Connection to, and supply from the utility providers is a matter for the client.
5. That Lens Media Limited must apply for full planning permission (and if requested, provide an Environmental Impact Statement) for the development of the entire site not later than 6 months after the signing of the Contract for Sale or such other date as may be approved solely at the discretion of the Council. Lens Media Limited shall forward to the Council within six months of the date of final grant of planning permission, and in any event, no later than one month prior to Lens Media Limited commencing works on foot of the final grant of planning permission, a copy of the outline building programme for such works describing the key construction milestones.
6. That the planning application should detail and meet design standards and landscaping appropriate to its location in Grange Castle West Business Park.
7. That it will be a requirement of the Master Lease that within 9 months from the date of this Lease or such longer period as may be approved in writing by the Council - such approval not to be unreasonably withheld or delayed due to force majeure or a restraint on construction activity due to Covid-19 or global pandemic - to have substantially commenced to build and erect upon the Demised Premises, a building(s) in accordance with plans, specifications and development proposals first approved of in writing by the Council or its nominated architect, engineer or surveyor and in accordance with all statutory requirements, regulations and bye-laws applicable thereto.
8. That the Council shall enter into a Contract for Sale in respect of the sale of the site to Lens Media Limited to give effect to these heads of terms, and which Contract shall allow Lens Media Limited to enter onto the site from the date thereof prior to the grant of the Master Lease, to carry out due diligence and site analysis (including, but not limited to geotechnical analysis and studies, soils testing, water analysis, site borings, environmental assessments, etc.) prior to the grant of final planning permission. The Contract for Sale/Master Lease shall contain further reasonable obligations upon Lens Media Limitedwith respect to that construction to ensure the satisfactory completion of the Media Park on the site.
9. That Lens Media Limited will be responsible for all planning levies and contributions payable in accordance with the Council’s Development Contribution Scheme made under the Planning and Development Act 2000, as amended. The contributions under the Scheme are payable prior to commencement of the build or as otherwise agreed by the Council. Lens Media Limited must satisfy themselves as to the capacity of all services to service the proposed development.

That a special Arts contribution fixed at 50 cent per square foot of gross building area shall apply and shall be payable when the development is practically completed. For the purpose of this Clause, “practically completed” shall mean the date on which a Certificate of Practical Completion shall be issued by the architect or surveyor appointed by the Lessee confirming that the said building(s) is free from any known or patent defects and capable of beneficial occupancy and being used as intended.

1. That all site investigations (including archaeological investigations), groundworks, overhead cable diversions, demolitions/site clearance/septic site removal (such works are subject to regulations and to obtaining the relevant statutory licences), services connections, development and associated costs incurred in the delivery of the entire completed development shall be borne by Lens Media Limited.

1. That Lens Media Limited shall undertake not to use the site for any purposes other than that of carrying out the proposed development, i.e. as stated at the outset of this document, and subject to the terms of the “Master Lease” (see term no. 13 below). All buildings shall be occupied by the applicants or their tenants, agents, employees, invitees and/or assigns in accordance with the terms of the Master Lease.
2. That Lens Media Limited shall build nothing (except with the prior written approval of the Council) on the site except the buildings shown on the approved drawings and for which planning permission has been granted, as outlined in term no. 5 subject to any amendments or any permitted amendments thereto. A maintenance plan for the external areas and buildings shall be submitted to the Council.
3. That within 3 months of the granting of planning permission(s), the Council and Lens Media Limited should sign and complete the Master Lease. The Master Lease shall be for a term of 999 years following completion of the sale and payment of the remaining 90% of the Purchase Price in accordance with term 2 (b)The Master Lease will be subject to a rent of €500 per annum (exclusive of rates, taxes, and outgoings in respect of the site) which will be reviewed at the end of every 5 years of the term in line with any changes in the Irish Consumer Price Index. The Council’s Solicitors shall draft the Lease for approval by Lens Media Limited Solicitors. The Lease granted shall be known as the Master Lease (“Master Lease”). The Master Lease shall provide that the Lessee shall become a member of the management company for the Business Park and shall pay the annual service charge described in accordance with the provisions of the Master Lease and appendices thereto. Under the terms of the Master Lease please note the following:
	1. It will be a requirement of the Master Lease that within 9 months of the date of this Lease or such longer period as may be approved in writing by the Council - such approval not to be unreasonably withheld or delayed due to force majeure or a restraint on construction activity due to Covid-19 or global pandemic - to have substantially commenced to build and erect upon the Demised Premises, a building(s) in accordance with plans, specifications and development proposals first approved of in writing by the Council or its nominated architect, engineer or surveyor and in accordance with all statutory requirements, regulations and bye-laws applicable thereto.
	2. Within 36 months of the date of this Lease or such longer period as may be approved in writing by the Council - such approval not to be unreasonably withheld or delayed due to force majeure or a restraint on construction activity due to Covid-19 or global pandemic - to have practically completed the construction of the said building(s) in a skilful and proper manner and in accordance with the said plans and specifications and all statutory requirements, regulations and bye-laws applicable thereto. For the purpose of this Clause, “practically completed” shall mean the date on which a Certificate of Practical Completion shall be issued by the architect or surveyor appointed by the Lessee confirming that the said building(s) is free from any known or patent defects and capable of beneficial occupancy and being used as intended.
	3. Within thirty days of practical completion of the construction of the said building(s), a complete set of “as built floor plans” to be furnished to the Council in respect thereof.
4. That the Agreement to Lease (if any) or Contract for Sale is not to operate as a Lease, and it shall not be transferable save in the case of a financial institution of good standing which has entered into a mortgage with the applicants specifically for the purpose of financing the applicants to undertake the development of the site.
5. That during the building period, Lens Media Limited will provide all reasonably required evidence of the ‘all risks’, public liability and employer’s liability insurance cover maintained by Lens Media Limited for the construction period. It is acknowledged that following completion of the construction of the Media Park, the building and all insurable risks associated therewith will be included in Lens Media Limited insurance. All insurance will be subject to the approval of the Council’s insurance advisors, acting reasonably.
6. That the insurance shall be in the joint names of the Council and Lens Media Limited, or shall contain an indemnity to principal’s clause, and will be for such an amount as will provide cover for the full reinstatement value of so much of the building as is erected at any time together with a sum for professional fees and removal of debris charges.
7. That Lens Media Limited shall also indemnify South Dublin County Council against any claim for compensation which might/may be made by any party arising out of building works being carried out on the site, or any working areas or on any access points thereto.
8. That the Council is and shall be carrying out extensive construction projects in the Business Park. Both parties shall use their reasonable endeavours to ensure that any interaction between respective contractors employed to carry out any works including, but not limited to building or road works, is carried out in an open and transparent manner with engineers and liaison officers such as to ensure that no additional contract costs accrue to either party.
9. That subject to the permitted user and the requirements of external filming, no uncovered outdoor storage shall be permitted on the site subject lands. All processing, packing, waste disposal or recycling and such like operations shall be carried out within suitable structures or equipment such as compactors located on the site premises in accordance with any statutory regulations or requirements in that regard.
10. That all car and commercial vehicle parking areas, loading areas and service areas must be suitably landscaped and screened from public view. In this regard Lens Media Limited shall carry out such boundary and landscape treatment work as the Council may reasonably require, bearing in mind the nature of the Park and provided that such works are not substantially more than required of any other occupiers of the Park during construction. Such works may, only where reasonable, be in addition to similar works required under a planning permission for development of the subject lands. Lens Media Limited shall submit a copy of its landscaping and security plan to the Council’s Development Department prior to the grant of the Master Lease for approval, such approval not to be unreasonably withheld or delayed.
11. That each party shall be responsible for their own professional (i.e. legal, engineering, architects, and other required consultants’) fees in this case.
12. That Lens Media Limited shall pay any V.A.T., stamp duty or taxes arising at any stage in the transactions (except where any lawful exemption or relief therefore applies), including on the creation of a Building Licence (if any), Contract for Sale, and a Master Lease.
13. That the Councils Solicitor shall draft the Contracts and Leases and may include further reasonable terms and conditions as deemed appropriate to give effect to the heads of terms set out herein, including provision for use of an expert or arbitrator process to settle any disputes arising, as appropriate, in order to achieve a reasonable balance in the protection of the parties’ respective interests in the matter. In the case of disputes concerning final measurement and valuation of the site for the purposes of calculating the Purchase Price, an arbitration clause shall refer to the appointment of a Chartered Valuation Surveyor to act as arbitrator. This person to be appointed by agreement of the parties or in default of agreement to be appointed by the President of the Society of Chartered Surveyors in the Republic of Ireland. The costs of any arbitration to be borne equally by the parties.
14. That Lens Media Limited shall satisfy South Dublin County Council (acting reasonably) prior to exchange of the Contract for Sale that sufficient funds are available for the payment of the sums set out in term no. 2 above, and prior to commencement of construction or the relevant phase thereof as appropriate.
15. That the above proposal is subject to the necessary approvals and consents being obtained – in order to allow full construction activities.
16. That no agreement enforceable at law is created or is intended to be created until an exchange of contracts has taken place.

The lands being disposed of form part of lands acquired from The Doble Family and Maplewood Developments through receivers M. Coyle and M. Madden,

for the future development of Grange Castle West Business Park.

**Daniel McLoughlin**

**Chief Executive**