



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Grants Management Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor, City of Urbana

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: July 27, 2015

SUBJECT: A RESOLUTION AUTHORIZING THE EXECUTION OF AN OPTION FOR THE HOUSING AUTHORITY OF CHAMPAIGN COUNTY TO LEASE OR PURCHASE THE FORMER URBANA TOWNHOMES SITE

Description

Included on the agenda of the July 27, 2015 meeting of the Urbana Committee of the Whole is a Resolution Authorizing the Execution of an Option for the Housing Authority of Champaign County to Lease or Purchase the Urbana Townhomes Site. As the current owner of the Urbana Townhomes site, the City was approached by the Housing Authority of Champaign County (HACC) to enter into such an agreement in support of an application by the selected developer for an Affordable Housing Grant from the Federal Home Loan Bank of Pittsburgh that will assist in the financing of a mixed-income affordable housing development to be created on the former Urbana Townhomes site.

Background

In December 2012, the City of Urbana acquired the subject property as a donation from Urbana Capital, LLC following a period of decline, foreclosure, and condemnation of the Urbana Townhome Apartments (Ordinance 2012-12-108). The City Council later approved a budget amendment in February of 2013 to demolish the structures on site. Community Development staff worked with the Urbana Fire Rescue Services Department to demolish the units in the safest, most cost effective manner through a controlled burn exercise performed on six of the eight buildings, followed by demolition of the other two units and debris removal. Following a considerable delay due to federal environmental review requirements, the units were completely demolished and the site was cleared and leveled in Spring, 2015 and is now available for redevelopment.

In October 2013, the City Council adopted a Resolution (Resolution No. 2013-10-052R) authorizing the execution of an Intergovernmental Agreement with the Housing Authority of Champaign County (HACC) Regarding Redevelopment of Aspen Court and Urbana Townhomes. This Agreement provided for the two entities to work together to seek a developer who could jointly redevelop the Urbana Townhomes and the adjacent Aspen Court properties into a mixed income community of choice consistent with the affordable housing goals of the City's Comprehensive Plan and Urbana HOME Consortium Consolidated Plan.

Working together, the two entities solicited and selected a private development partner to undertake the desired redevelopment. As a result of the procurement process, the firm of Herman and Kittle Properties, Inc. was selected to redevelop the Urbana Townhomes site with mixed-income affordable housing and to conduct a major rehabilitation of the Aspen Court property. Over the past several months, Herman and Kittle Properties Inc. has invested considerable effort in pre-development activities, developing concept plans and working closely with the Lierman Neighborhood Action Committee and providing updates to the City Council.

Discussion

The developer is now at a stage where they must seek funding in order to allow the project to move forward. As a result, Herman and Kittle Properties, Inc. in conjunction with the HACC, and with the guidance of development consultant Cindi Herrera, is applying for an Affordable Housing Grant from the Federal Home Loan Bank. In order to apply for these funds, the developer must demonstrate site control through the form of a lease option for the property. The application deadline for this source of funds is early August.

It is anticipated that the City of Urbana would provide a long-term ground lease for the Urbana Townhomes property to the HACC who will in turn provide necessary vouchers and development control to Herman and Kittle. While the City has not yet completed its negotiations with the HACC on the terms of the long-term lease or sale of the property, a short term option is necessary at this point in order to allow for the funding applications to proceed. In completing our negotiations with the HACC, the City will seek to ensure that development of the property does not create a financial burden on the city and that sufficient cash flow is provided to off-set any reduction in tax dollars that may result due to State mandated Payment in Lieu of Tax reductions for housing authority properties.

The proposed Option will help the HACC and its partners to fulfill the City's commitment to the goals outlined in the *2005 Comprehensive Plan* and in the following goals from the *City of Urbana and Urbana HOME Consortium FY 2015-2019 Consolidated Plan*:

- *Goal 1: Provide decent affordable housing opportunities for low- and moderate-income households*
 - *Activity: Support new construction of affordable rental units sponsored by CHDOs and other nonprofits.*
 - *Activity: Support and provide guidance for for-profit developers building new affordable renter and owner units.*
- *Goal 2: Address barriers to obtaining affordable housing*
 - *Activity: Encourage housing developers to include visitability/accessibility measures in new construction efforts.*
- *Goal 3: Preserve and improve supply of affordable housing*

- *Activity: Rental Rehabilitation: Provide HOME funds for rehabilitation of rental housing units to rent to households with incomes at or below 60% of the area median.*
- *Goal 4: Work with the Housing Authority of Champaign County to improve conditions for residents of public housing.*
 - *Activity: Encourage the Housing Authority of Champaign County to increase the earning potential of extremely low-income households.*
- *Goal 9: Preserve and support Urbana's neighborhoods as vibrant places to live.*

Proposed Option Agreement

The proposed Option would allow the City to have the right and option to lease the Urbana Townhomes site to the HACC at any time on or before June 30, 2016 in consideration for a nominal option rate of \$10.00 per year. Once the HACC exercises its option to lease the site, the City and HACC will have 30 days to execute the lease prior to the lease becoming effective.

While the final terms of the lease have not yet been negotiated, it is anticipated to contain the following terms:

(a) The Lease shall be for a term of 99 years;

(b) The Lease shall permit HACC to sub-lease to an ownership entity to be formed, of which HACC or a related entity of HACC shall have an ownership interest;

(c) The ownership entity shall construct and own the improvements on the Site pursuant to the approved Development Plan with such Development Plan providing for, but not necessarily limited to, at the election of the City, provision for stormwater sewer drainage of the property contiguous to and immediately west of the Site having a common address of 1507 W. Washington Street, Urbana, Illinois;

(d) The Lease shall contain terms that permit financing of the improvements as contemplated by the Development Plan;

(e) The Lease shall contain such terms and conditions as are usual and customary for similar transactions and/or to which the City and HACC may otherwise agree.

The proposed Option would also allow the HACC to purchase the Urbana Townhomes site from the City, as an alternative to the Lease provisions. It is anticipated that any purchase agreement between the City and the HACC will be required to contain the following terms:

(a) Date and location of closing on such sale/purchase;

(b) A Requirement that any Development Plan be approved by the City;

(c) A requirement, at the sole election of the City, that any Development Plan include provision for stormwater sewer drainage of the property contiguous to and immediately west of the Site having a common address of 1507 W. Washington Street, Urbana, Illinois; and

(d) Such other terms and conditions as are usual and customary for a similar transaction.

Because the proposed Option pertains to city-owned real estate, a public hearing is necessary prior to final Council action. The required notice for the public hearing on this action has been posted to take place on August 3, 2015 at 7:00 p.m.

Options

1. Approve the Resolution Authorizing the Execution of an Option for the Housing Authority of Champaign County to Lease or Purchase the Urbana Townhomes Site.
2. Approve the Resolution Authorizing the Execution of an Option for the Housing Authority of Champaign County to Lease or Purchase the Urbana Townhomes Site with changes.
3. Do not approve the Resolution Authorizing the Execution of an Option for the Housing Authority of Champaign County to Lease or Purchase the Urbana Townhomes Site.

Fiscal Impacts

Approval of this Option does not commit any City financial resources to the project at this time. Once Herman and Kittle Properties, Inc. finalizes its proposal, a more complete fiscal analysis can be provided. Depending upon the partnership structure agreed upon and subsequent lease or sale negotiations, the City could potentially recoup some of the investment it has made in the demolition of the Urbana Townhomes property and/or provide for mitigation of any tax reduction due to the application of Payment in Lieu of Taxes for Housing Authority properties. These decisions will need to be reached after a more thorough financial assessment of all viable options is completed.

Other potential financial impacts of a subsequent development project include any fee or permit waivers requested by the Developer for construction subsidy, federal grant allocations or other financial interests in the project, staff costs associated with plan review and inspections during the construction phase of the project, as well as subsequent routine inspections of the units as part of the Rental Registration Program.

The City and other taxing bodies will receive benefits from taxes generated by the increase in property value that would occur as a result of improvements to the surrounding neighborhood. Most importantly, the project would serve to stabilize the neighborhood by upgrading currently

distressed units and providing new affordable housing units of choice for Urbana residents.

Recommendation

Staff recommends approval of the Resolution as attached. The proposed agreement will allow the developer and the Housing Authority to make progress with regards to financing for development on the site. This development will allow additional capital investment into the neighborhood that could not be accomplished by the City of Urbana alone. The Developer has established a positive working relationship with the Lierman Neighborhood Action Committee (LNAC), and formal City participation in this process will facilitate public input into the future use of the site as plans are developed. For these reasons, staff recommends APPROVAL of the attached Resolution.

Prepared by:



Matt Rejc
Community Development Associate
Grants Management Division

Attachments:

1. A RESOLUTION AUTHORIZING THE EXECUTION OF AN OPTION FOR THE HOUSING AUTHORITY OF CHAMPAIGN COUNTY TO LEASE OR PURCHASE THE FORMER URBANA TOWNHOMES SITE
2. Option to Lease or Purchase
3. Site location map for Urbana Townhomes

Cc: Edward Bland, HACC
Cindi Herrera, Cindi Herrera and Associates
Kyle Peterson, Herman and Kittle Properties

RESOLUTION NO. 2015-07-038R

A RESOLUTION AUTHORIZING THE EXECUTION OF AN OPTION FOR THE HOUSING AUTHORITY OF CHAMPAIGN COUNTY TO LEASE OR PURCHASE THE FORMER URBANA TOWNHOMES SITE

WHEREAS, the City Council of the City of Urbana, Illinois, has found and determined that providing an option to lease or purchase the former Urbana Townhomes site (901 to 1009 S. Lierman Avenue) to the Housing Authority of Champaign County is desirable and necessary to meet applicable goals and objectives; and

WHEREAS, the Housing Authority of Champaign County is applying for an Affordable Housing Grant from the Federal Home Loan Bank of Pittsburgh that will assist in the financing of a mixed-income affordable housing development to be created on the former Urbana Townhomes site; and

WHEREAS, the application for the Affordable Housing Grant requires the applicant, in this case the Housing Authority of Champaign County, to be in control of the property for which it is applying. A long-term lease from the City of Urbana, the owner of the property, or the outright sale of the property, will suffice for the application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That an Option for the Housing Authority of Champaign County to purchase or lease the Urbana Townhomes site from the City of Urbana, in substantially the form of the copy of said Option attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Option as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____,
_____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
_____.

Laurel Lunt Prussing, Mayor

OPTION TO LEASE OR PURCHASE

THIS OPTION TO LEASE OR PURCHASE (this "Option") is made and entered into as of this ____ day of July, 2015 by and between the City of Urbana, Illinois ("City"), a public body corporate and politic, organized and existing under the laws of the State of Illinois, and The Housing Authority of Champaign County ("HACC"), a public body corporate and politic, organized and existing under the laws of the State of Illinois

WITNESSETH:

WHEREAS, the City of Urbana, an Illinois municipal corporation, (hereafter the "City") is a home rule entity pursuant to Article 7, § 6 of the Constitution of the State of Illinois and 65 ILCS 5/1-1-10; and

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois, 1970, provides authority for units of local governments to contract or otherwise associate among themselves to obtain and share services and the exercise, combined or transfer any power or function in any manner not prohibited by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5ILCS 220/1-220/9) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform provided that such contract shall be authorized by the governing body of each party to the contract.

WHEREAS, City and HACC have entered into an Intergovernmental Agreement ("IGA") to redevelop certain property ("the Site") in the City of Urbana, Champaign County, Illinois as described in Exhibit A. In furtherance of the terms of the IGA, City and HACC desire to enter into an option for a long term ground lease or purchase as described hereinafter;

WHEREAS, City pursuant to this Option shall grant to HACC an option to lease or to purchase the Site to redevelop as affordable housing pursuant to an agreed upon development plan;

NOW THEREFORE, in consideration of Ten Dollars (\$10.00) and the mutual covenants by City and HACC for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and HACC agree as follows:

1. **Option:** At any time on or before June 30, 2016, as such date may be from time to time extended at the sole discretion of the City at the request of HACC (as so extended, the "Option Deadline"), HACC shall have the right and option to lease the Site pursuant to the terms and conditions contained in a written ground lease ("Lease") to be negotiated and as agreed to by and between City and HACC or to acquire the Site upon such other terms as City and HACC shall agree to in writing ("Purchase Agreement"). HACC may exercise the option granted herein upon written notice to City at any time on or before the Option Deadline. Following HACC's exercise of the option granted herein, City and HACC shall execute the Lease at least thirty (30) days prior to the date that the Lease shall become effective between City and HACC.

2. **Terms and Conditions of the Lease or Sale Agreement:** City and HACC shall negotiate in good faith to finalize the terms and conditions of the Lease or Purchase Agreement, as the case may be, no later than the Option Deadline. The Lease shall contain the following basic terms: (a) the Lease shall be for a term of 99 years; (b) the Lease shall permit HACC to sub-lease to an ownership entity to be formed, of which HACC or a related entity of HACC shall have an ownership interest; (c) the ownership entity shall construct and own the improvements on the Site pursuant to the approved Development Plan with such Development Plan providing for, but not necessarily limited to, at the election of the City, provision for stormwater sewer drainage of the property contiguous to and immediately west of the Site having a common address of 1507 W. Washington Street, Urbana, Illinois; (d) the Lease shall contain terms that permit financing of the improvements as contemplated by the Development Plan; and (e) the Lease shall contain such terms and conditions as are usual and customary for similar transactions and/or to which the City and HACC may otherwise agree. The Purchase Agreement shall contain the following basic terms: (a) date and location of closing on such sale/purchase; (b) requirement that any Development Plan be approved by the City; (c) a requirement, at the sole election of the City, that any Development Plan include provision for stormwater sewer drainage of the property contiguous to and immediately west of the Site having a common address of 1507 W. Washington Street, Urbana, Illinois; and (d) such other terms and conditions as are usual and customary for a similar transaction. In the event that the parties are unable to agree upon the terms of the Lease or the Purchase Agreement by the Option Deadline, or in the event HACC shall fail to exercise the option as provided in Section 1 above, and notwithstanding anything contained herein to the contrary, this Option shall terminate, whereupon neither of the parties shall have any further rights, claims or liabilities under this Option.
3. **Rent and Purchase Price:** The rent payable under this Lease Option shall be Ten Dollars (\$10.00) per year payable in advance on the first day of each calendar year of the lease term. The purchase price for the final negotiated lease, or sale and purchase of the Site shall be in such amount as the City and HACC shall agree in writing.
4. **Time of Essence:** Time is of the essence of this option.
5. **Notices:** Any and all notices, elections, demands or communications permitted or required to be made under this Option shall be in writing, signed by the party giving such notice, and shall be delivered in person or sent by registered or certified mail, to the other party hereto. The date of the personal delivery or the date of the mailing, as the case may be, shall be the date that such notice or election shall be deemed to have been given. For the purpose of this Option:

If to HACC:

Housing Authority of Champaign County, Illinois
205 W. Park Avenue
Champaign, Illinois 61820-3928
Telephone: 217-378-7100
Attention: Edward Bland, Executive Director

With a copy to: Mahoney, Silverman & Cross, LLC
822 Infantry Drive, Suite 100
Joliet, Illinois 60435
(815) 730-9500
Attention: Eric Hanson, Esq.

If to the City: City of Urbana
Community Development Services Department
400 S. Vine Street
Urbana, Illinois 61801
(216) 384-2412
Attention: Elizabeth Tyler, Director

With a copy To: City of Urbana
Legal Division
400 S. Vine Street
Urbana, Illinois 61801
(217) 384-2464
Attention: City Attorney

6. **Choice of Law:** This Option shall be governed by and construed in accordance with the laws of the State of Illinois. Any action to interpret, construe or enforce this option shall be initiated and maintained in the Circuit Court for the Sixth Judicial Circuit, Champaign, County, Illinois. Notwithstanding the immediate foregoing, in the event of a dispute concerning any interpretation, construction or enforcement of this Option, the City and HACC shall attempt to resolve their dispute by entering into and participating in good faith mediation with a mediator upon whom they mutually agree.
7. **Successors and Assigns:** The covenants and conditions herein contained inure to and bind the heirs, successors, executors, administrators and assigns of the parties hereto; provided, however, HACC shall not assign its interest in the Option without the prior written consent of City as exercised by the City Council and the Mayor.
8. **Counterparts:** This Option may be executed in multiple original counterparts, each of which shall constitute an original document binding upon the parties signing the same. It shall not be necessary that all parties sign all counterparts and this Option shall be binding if each party shall have executed at least one counterpart.
9. **Recording:** This Option may be recorded against the Site at the expense of HACC.

IN WITNESS WHEREOF, the parties herein have hereunto set their hand and seal the day and year first above written.

CITY:

THE CITY OF URBANA, ILLINOIS

By: _____
Laurel Lunt Prussing, Mayor

HACC:

**HOUSING AUTHORITY OF CHAMPAIGN
COUNTY, ILLINOIS**

By: _____
Edward Bland, Executive Director

STATE OF ILLINOIS)
)
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Edward Bland, personally known to me to be the Executive Director of the Housing Authority of Champaign County, Illinois (“HACC”) and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument in his capacity as Executive Director of the Authority as his free and voluntary act and deed and as the free and voluntary act and deed of the Authority for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of July, 2015.

Notary Public

My Commission expires: _____

STATE OF ILLINOIS)
) **SS.**
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public in and for the County and State aforesaid, certify that Laura Lunt Prussing, personally known to me to be the Mayor of the City of Urbana, Illinois (the “City”), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her capacity as Mayor of the City as her free and voluntary act and deed and as the free and voluntary act and deed of the City for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of July, 2015.

Notary Public

My commission expires:

EXHIBIT A

LEGAL DESCRIPTION OF SITE

Lot 2 of Woodstone Subdivision, as per plat recorded in Plat Book "Y" at page 260, situated in the City of Urbana, in Champaign County, Illinois.

PIN: 92-21-16-401-014

Commonly known as 901, 903, 905 S. Lierman Ave., Urbana, Illinois

Lot 3 of Woodstone Subdivision, as per plat recorded in Plat Book "Y" at page 260, situated in the City of Urbana, in Champaign County, Illinois.

PIN: 92-21-16-401-015

Commonly known as 907, 909, 911 S. Lierman Ave., Urbana, Illinois

Lot 11 of Replat of Lot 4 of Woodstone Subdivision, as per plat recorded in Plat Book "Y" at Page 300, situated in the City of Urbana, in Champaign County, Illinois

PIN: 92-21-16-401-018

Commonly known as 1001, 1003 S. Lierman Ave., Urbana, Illinois

Lot 10 of Replat of Lot 4 of Woodstone Subdivision, as per plat recorded in Plat Book "Y" at Page 300, situated in the City of Urbana, in Champaign County, Illinois

PIN: 92-21-16-401-017

Commonly known as 1005 S. Lierman Ave., Urbana, Illinois

Lot 9 of Replat of Lot 4 of Woodstone Subdivision, as per plat recorded in Plat Book "Y" at Page 300, situated in the City of Urbana, in Champaign County, Illinois

PIN: 92-21-16-401-019

Commonly known as 1009 S. Lierman Ave., Urbana, Illinois



Location: Urbana Townhomes
(901-1009 S. Lierman Ave.)

 Urbana Townhomes Property

Prepared 7/20/2015 by Community Development Services

