



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Grants Management Division*

### **m e m o r a n d u m**

**TO:** Bruce K. Walden, Chief Administrative Office

**FROM:** Elizabeth Tyler, AICP, City Planner/Director

**DATE:** March 17, 2006

**SUBJECT:** **An Ordinance Authorizing The Revision Of The Contract To Transfer Certain Real Estate (1209 W. Beech Street)**

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### **Description**

Included on the agenda for the March 20<sup>th</sup> meeting of the Urbana City Council is an amendment to the contract for sale of real estate with the Homestead Corporation. This contract was approved by Council under Ordinance No. 2005-08-123 authorizing the transfer of 1209 Beech Street. The approved contract contains standard language typically used to convey city-owned properties to not-for-profit organizations for construction of new single-family residences for sale to low-income households. The contract with Homestead Corporation requires revisions that will extend the completion timeline by one month and allow Homestead to secure construction financing that will be used to facilitate construction of a new home at 1209 W. Beech, Urbana

The lender that will provide the construction financing requires the warranty deed be recorded indicating that Homestead Corporation is the property owner. In past City contracts for property sales, the deed has been held in escrow until the non-profit agency had met the contract requirements for completion of an affordable home. The contract stipulates that upon project completion, the deed is to be released to the non-profit agency. In order to protect the City in the event the non-profit agency did not perform, the non-profit agency executes a quit claim deed at the time of closing. This quit claim deed is also held in escrow and can be recorded by the City if the contract requirements are not met by the non-profit. The proposed revisions to the Homestead contract extend the completion date by thirty-one days and changes the timing of the deed recordation in the name of Homestead.

### **Issues**

The issue is whether the Urbana City Council should approve the amendment to the contract. It appears this would have no adverse impact on the project and the city will still hold a quit claim deed for title allowing the City to reclaim the property in the event that Homestead Corporation does not meet the contract performance requirements.

## **Background**

On May 17, 2004, the Urbana City Council approved Ordinance No. 2004-05-052, approving the execution of an agreement with Homestead for their Affordable Homeownership Program. Under this program, Homestead plans to construct three (3) new single-family homes. IN accordance with the agreement, these homes are required be sold to low- or moderate-income households. Homestead's responsibilities in implementing the affordable homeownership project include:

- Acquire vacant properties suitable for new home construction;
- Identify income-eligible buyers and assist them in securing short- and long-term bank financing for their home;
- Verify buyer qualification via the HUD prescribed income verification process;
- Manage the home construction process;
- Transfer ownership to the homebuyer upon completion of the home;

Since the inception of this project, Grants Management Division staff has worked closely with Homestead's Executive Director, Jim Rose, to ensure success. Architectural designs for the units were completed in early 2005, and two income-qualified buyers were identified shortly thereafter. Construction of these homes, located at 1605 W. Healey in Champaign and 809 N. Busey in Urbana, began in November 2005 and is anticipated to be completed by May 2006.

After several months of marketing, Homestead recently identified a prospective buyer for the final home to be built at 1209 W. Beech. The project is now ready to move forward upon completion of the HUD income verification process. The bank has already approved the prospective buyer for a mortgage; however, the bank is unwilling to provide construction financing for the home unless the deed is recorded in Homestead Corporation's name. Because of the late timing in identifying a buyer, an extension of the contract from June 30, 2006 to July 31, 2006 has been requested. The original contract called for completion of construction of all three homes by June 30, 2006. In reviewing the original agreement, staff determined that, to facilitate this title recordation and timeline extension, an amendment to the contract would be required. The amended Contract for sale of real estate is attached for Council review.

## **Options**

1. Urbana City Council can approve the amendment to the contract for sale of real estate and the project can proceed without delay.
2. Urbana City Council can decide not to approve the amendment to the contract, for sale of real estate. This may require Homestead Corporation organization to pursue other construction financing options.

## **Fiscal Impacts**

There would be no fiscal impact to the city budget. Funds for Homestead Corporation have been budgeted in FY 2002-2003 and FY 2003-2004 Annual Action Plans.

## **Recommendations**

Staff recommends that the Urbana City Council approve the amendment to the construction contract and ordinances.

## **Memorandum Prepared By:**

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**Randy Burgett**  
**Housing Rehab Coordinator**  
**Grants Management Division**

## **Attachments:**

1. Revised Sales Contract – 1209 W. Beech St.
2. An Ordinance Authorizing The Revision Of The Contract To Transfer Certain Real Estate (1209 W. Beech Street)

## CONTRACT FOR SALE OF REAL ESTATE

This Contract made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by and between the City of Urbana, Illinois, a municipal corporation of the State of Illinois (hereinafter referred to as Seller), and Homestead Corporation, an Illinois not-for-profit corporation (hereinafter referred to as Buyer).

WITNESSETH:

IT IS MUTUALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES HERETO as follows:

1. Sale. Seller agrees to sell and convey, and Buyer agrees to buy, the following described parcel of real estate:

The East 16 ½ feet of Lot 6 and the West 33 feet of Lot 5 in Block 13 in Seminary Addition to Urbana, situated in the City of Urbana, County of Champaign and State of Illinois;

PIN: 91-21-07-260-002;

more commonly known as 1209 W. Beech St., Urbana, Illinois (hereinafter referred to as Subject Property).

2. Purchase Price. Seller agrees to convey title to Subject Property for One Dollar (\$1.00) and other consideration as described herein.
3. Evidence of Title. Within a reasonable time, Seller shall select and deliver one of the following to Buyer as evidence of title:
  - a. A copy of a title insurance policy issued to the City by Allied Title Services, Inc., Champaign, Illinois, in connection with acquisition of Subject Property by the City; the City warrants that it has done nothing to encumber Subject Property since its acquisition of Subject Property; or
  - b. A commitment of title insurance issued by a title insurance company regularly doing business in Champaign County, committing the company to issue a policy in the usual form insuring title to Subject Property to Buyer for the amount of the Seller's purchase price or the minimum amount of title insurance, whichever is greater.

Permissible exceptions to title shall include only the lien of general taxes; zoning laws and building ordinances; easements, apparent or of record, which do not underlie the improvements, if any; and covenants and restrictions of record which

are not violated by the existing improvements or the present use of the property and which do not restrict reasonable use of the property.

Buyer shall point out in writing to Seller within a reasonable time after receipt of the evidence of title any objections that Buyer may have thereto and unless so pointed out the evidence of title shall be conclusively presumed to be accepted by Buyer.

Seller shall have a reasonable time to cure any objections actually interfering with or impairing the merchantability of the title to Subject Property. If Seller is unable to cure such objections and is unable to procure a title policy insuring over such objections, then Buyer shall have the option to terminate the Contract.

The evidence of title and title insurance shall be at the sole expense of the Seller.

4. Conveyance. Seller agrees to convey Subject Property to Buyer by good and sufficient Warranty Deed, subject to current general taxes, covenants, conditions, restrictions, easements apparent or of record, and to all applicable zoning laws and ordinances.

At the time of closing of this transaction, a Warranty Deed from Seller in favor of Buyer shall be recorded with the Champaign County Recorders' Office and delivered to Buyer.

At the same time, a Quit Claim Deed from Buyer in favor of Seller shall be placed in escrow with the City of Urbana Department of Community Development Services (hereinafter referred to as "(Escrow Agent)").

In the event that Buyer constructs a single-family residence on Subject Property and is issued a certificate of occupancy for said residence by the Urbana Building Safety Division on or before July 31, 2006, or on or before the date established in any modification to this Contract, the Escrow Agent shall destroy said Quit Claim Deed.

In the event that Buyer has not started construction of a single-family residence on Subject Property as of May 31, 2006, or as of the date established in any modification to this Contract, the Escrow Agent shall release said Quit Claim Deed to Seller.

In the event that Buyer has begun construction of a single-family residence on Subject Property as of July 31, 2006, or as of the date established in any modification to this Contract, but has not received a Certificate of Occupancy for said residence as of that date, Seller retains the right to pay Buyer, in care of the Escrow Agent, an amount equivalent to the value of improvements in place on Subject Property as of July 31, 2006, or as of the date established in any modification to this Contract, taking credit against said amount for any outstanding liens or encumbrances against Subject Property, said liens including real estate taxes prorated up to the date Seller assumes possession under this paragraph. Said value shall be certified to both Buyer and Seller by an architect licensed by the State of Illinois, doing business in Champaign County, Illinois and mutually acceptable to Buyer and Seller. The Escrow Agent shall deliver said payment

to Buyer, release and record said Quit Claim Deed with the Champaign County Recorders Office and deliver to the Seller.

Any and all escrow charges shall be paid by Buyer.

5. Taxes and Assessments. Seller shall pay all special assessments confirmed prior to the date of this Contract and real estate taxes assessed against Subject Property for 2005 payable in 2006 up to the date of possession. Buyer shall pay all special assessments and real estate taxes assessed against Subject Property after the date of possession

Buyer shall promptly pay all bills for utilities and taxes associated with Buyer's possession and use of Subject Property, including but not limited to water, gas, electric, cable television, sewage treatment, and sewer benefit taxes.

6. Condition of Subject Property. Buyer agrees to accept Subject Property in its "as-is" condition, and Seller disclaims all warranties express or implied as to the condition of Subject Property.
7. Compliance with Development Codes. Any residence constructed pursuant to this Contract shall be constructed in accordance with all applicable land development, zoning, and building codes of the City of Urbana, Illinois, and with any and all covenants recorded for the subdivision in which Subject Property is located. Buyer shall be responsible for obtaining and paying for all permits required under said codes.
8. House Design. Any residence constructed pursuant to this Contract shall be substantially compatible in design and quality of construction with drawings previously submitted by Homestead Corporation to the City of Urbana. Prior to issuance of any building permit by the Building Safety Division of the City of Urbana, Illinois, the Grants Management Division Manager of the Department of Community Development Services of the City of Urbana, Illinois, acting on behalf of the City, may request alterations to the proposed house design so as to comply with this Section.
9. Use of Subject Property. The primary purpose of Buyer activities undertaken pursuant to this Contract shall be construction of a single-family residence for sale to a low-income household through Buyer's Homeownership Program.
10. Limitation on Subsequent Sale of Subject Property. Any residence constructed by Buyer on Subject Property pursuant to this Contract may subsequently be sold by Buyer only to a family having income at or below 80 percent of median family income for Champaign County based on household size. Applicable income limits are those certified by the Grants Management Division Manager of the Department of Community Development Services of the City of Urbana, Illinois, acting on behalf of the City, to be in effect at the time Buyer accepts a household into its Homeownership Program. Buyer shall keep record of compliance with this Section on file for inspection by representatives of the City and the U.S. Department of Housing and Urban Development.

11. Property Maintenance. Buyer agrees to keep Subject Property properly mowed and free of excess vegetation and debris at all times from the date of this contract. Buyer shall neither suffer nor commit any waste on or to Subject Property. Buyer agrees to promptly respond to any notices received from the City of Urbana, Illinois, with regard to violation of the City's nuisance codes and to promptly correct any violation cited by said City. Buyer shall promptly pay all bills or charges incurred for materials, services, labor, or other like items that may create encumbrances against Subject Property. Buyer will become responsible for all property maintenance as of the date of this Contract.
12. Construction Schedule. Buyer agrees to construct a single-family residence on Subject Property such that a Certificate of Occupancy is issued for the newly constructed residence by the Urbana Building Safety Division on or before July 31, 2006, or, on or before a date established in any modification to this Contract.
13. Storage of Building Materials. Building materials needed to construct any residence pursuant to this Contract shall be stored within property lines and shall not be placed in the public right-of-way.
14. Seller Held Harmless. Buyer agrees to indemnify and hold Seller, its officers, agents, and employees, harmless for any liability or damages of any nature or kind concerning undertaking of any activity pursuant to this Contract, including reasonable attorneys' fees incurred in defending against any such claim.
15. Assignment. Buyer shall not assign this Contract without prior written consent of Seller to such assignment; provided, however, that Seller shall not unreasonably withhold such consent and further provided that no such assignment shall act as a discharge or release of Buyer's liability under this Contract.
16. Possession. City shall deliver possession of Subject Property to Buyer concurrently with closing of this transaction.
17. Default. If Buyer fails to perform any obligation imposed upon it by this Contract, Seller may serve written notice of default upon Buyer and if such default is not corrected within ten (10) days thereafter, this Contract shall terminate. In the event of failure of Seller to perform obligations imposed upon it by this Contract, Buyer may terminate this Contract upon similar notice served upon Seller and similar expiration of time period. The foregoing remedies in the event of default are not intended to be exclusive, and the parties shall have the right to all other lawful remedies, including specific performance. Default by Seller or Buyer shall entitle the non-defaulting party to claim as damages all reasonable costs, attorneys' fees, and expenses in connection with enforcement of this Contract.
18. Notices. Any notice required under this Contract to be served upon Seller or Buyer shall be personally delivered, or shall be mailed by certified mail to such parties at the address shown herein following their signatures, or at such other place as the parties may from time to time designate in writing.

19. Modification. No modification or extension of this Contract shall be effective unless in writing and executed by the parties hereto.
20. Terms Binding. All terms of this Contract shall be binding upon the heirs, legatees, devisees, representatives, and assignees of the parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written.

SELLER::

City of Urbana, Illinois  
400 South Vine Street  
Urbana, Illinois 61801

BY: \_\_\_\_\_  
Laurel Lunt Prussing, Mayor

ATTEST: \_\_\_\_\_  
Phyllis D. Clark, City Clerk

BUYER:

Homestead Corporation  
306 W. Griggs St.  
Urbana, Illinois 61801

BY: \_\_\_\_\_  
Tom Hodson, President

ATTEST: \_\_\_\_\_  
James Rose, Executive Director



**ORDINANCE NO. 2006-03-031**

**AN ORDINANCE AUTHORIZING THE REVISION OF THE CONTRACT TO  
TRANSFER CERTAIN REAL ESTATE**

**(1209 W. Beech Street)**

WHEREAS, Subsection (a), entitled "Sale of real estate," of Section 2-118, entitled "Purchase, sale, lease, etc., of real estate," of the Code of Ordinances, City of Urbana, Illinois, provides that any real estate owned by the City of Urbana may be sold in any manner prescribed by the City Council in an ordinance authorizing such sale; and WHEREAS, the requirements of said Subsection (a) of Section 2-118 for a public hearing and for the required notice for such public hearing do not, pursuant to the terms thereof, apply to the sale of residential property acquired under the community development program; and

WHEREAS, the City Council previously approved an earlier version of the contract on the 8<sup>th</sup> day of August 2005, but for reasons of financing the construction of the home the previous contract needs to be revised; and

WHEREAS, the City Council desires to revise the prior contract and sell the real estate commonly known as 1209 W. Beech St., which said property has heretofore been acquired under the community development program, in accordance with said Subsection (a) of Section 2-118 and the policy heretofore established with respect thereto; and

WHEREAS, the City Council expressly finds and declares that said real estate is not needed for governmental purposes or proprietary activity of the City of Urbana.

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

Section 1. That the Contract for Sale of Real Estate by and between the City of Urbana, Illinois, and Homestead Corporation, a copy of which said Contract is attached hereto and incorporated herein by reference, be and the same is hereby authorized and approved.

Section 2. The contract approved by Ordinance No. 2005-08-123 is hereby cancelled by mutual consent of the parties.

Section 3. The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute said Contract together with the deed and all other necessary documents required by said Contract 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