



MEMORANDUM

TO: Urbana City Council Members

FROM: Bruce Walden, Chief Administrative Officer

DATE: May 4, 2006

RE: Troxell Property Acquisition

Summary:

The attached Ordinance and Real Estate Contract approve the acquisition of property adjacent to downtown parking lot number 11. The property is currently owned by Jack Troxell, who has agreed to sell the property to the City for \$50,000.

Background:

There are several properties in the downtown area that Staff has targeted for acquisition to facilitate development or parking to support development. The attached aerial photo indicates the location of the subject property. Tax Increment District Number 2 lists this project area as project area 10. The plan calls for property acquisition, the potential realignment of Main and Springfield, the addition of parking and improvements to the Boneyard Creek corridor all in addition to private redevelopment projects. This property crosses the Boneyard and adjoins City parking facilities. It has been targeted as a priority acquisition for several years, given its strategic location.

The plan is to demolish the existing block building on the property in the near term and incorporate the land into lot 11, which will ultimately be reconfigured to add parking. For the longer term the property will provide parking in support of new private development as well as provide area adjacent to the Boneyard that will provide for design options along this corridor.

Fiscal impact:

Funds for the acquisition and demolition for this property were programmed in the current TIF #2 budget. The property is being acquired at fair market value. The contract is contingent on a Phase 1 environmental assessment.

Recommendation:

Staff recommends approval. This is a key step toward implementing our Downtown Strategic Plan and TIF #2 Redevelopment Plan.

BKW:ss

Attachments

ORDINANCE NO. 2006-05-058

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A CONTRACT FOR
PURCHASE OF REAL ESTATE

(Troxell - Rear of 302 West Main)

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

Section 1. That A Real Estate Contract Between the City of Urbana,
Champaign County, Illinois and First Busey Trust and Investment Company, as
Trustee under the provisions of a Trust Agreement dated the 15th day of
December, 1987, known as Trust #1-4085, in substantially the form of the copy
of said Contract attached hereto and hereby incorporated by reference, be and
the same is hereby authorized and approved.

Section 2. That the Chief Administrative Officer of the City of
Urbana, Illinois, be and the same is hereby authorized to execute and deliver
said Agreement as so authorized and approved for and on behalf of the City of
Urbana, Illinois.

PASSED by the City Council this _____ day of _____,
2006.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2006.

Laurel Lunt Prussing, Mayor

REAL ESTATE CONTRACT

This Real Estate Contract (the "Contract") is made as of the date of the last to execute of the parties hereto (the "Effective Date") by and between the City of Urbana, Champaign County, Illinois ("Purchaser" or sometimes "City") and First Busey Trust and Investment Company, as Trustee under the provisions of a Trust Agreement dated the 15th day of December, 1987, known as Trust #1-4085 ("Seller").

W I T N E S S E T H:

WHEREAS, Seller is the owner of certain real estate as later more specifically described in this Contract; and

WHEREAS, Purchaser desires to purchase said real estate on such terms and conditions as are provided for herein.

NOW, THEREFORE, in consideration of the representations, promises, covenants, agreements and undertakings set forth in this Contract, Seller and Purchaser hereby agree as follows:

Section 1. Sale. Seller agrees to sell the following real estate, together with all improvements and appurtenances (if any), situated in the City of Urbana, Champaign County, Illinois, the legal description of which is:

SEE EXHIBIT #1 ATTACHED.

commonly known as rear of 302 West Main Street, Urbana, Illinois.

(the "Real Estate"), together with all and any of Seller's interest in any real estate adjacent to the above-described parcels.

Section 2. Purchase Price and Payments to Seller.

City agrees to pay to Seller the total sum of Fifty Thousand Dollars (\$50,000.00) as the purchase price, which will be paid to Seller at closing, less any amount to be credited to City for prorations and credits allowed for in this contract.

Section 3. Leases.

(a) Seller affirms that the Subject Property will be vacant as of the date of closing, except for any items stored on the subject premises by the City prior to closing, which items then shall be the total responsibility of the City. The Seller accepts no liability for such.

(b) Seller further affirms that it is not party to a lease or contract sale with respect to Subject Property as of the date of this Contract. Seller shall not permit or allow or create any leases or allow or permit the renewal or extension of any lease, with respect to the Subject Property. It

is agreed that the non-leasing provisions of this Contract are material, and, if Seller violates this provision regarding the non-leasing of the Subject Property, Buyer may, at its option immediately declare this contract null and void.

Section 4. Evidence of Title. Buyer shall, within a reasonable time, order a commitment for title insurance issued by a title insurance company regularly doing business in the county where the Real Estate is located, committing the company to issue a policy in the usual form insuring title to the Real Estate in Purchaser's name for the amount of the purchase price. Buyer shall be responsible for payment of the owner's premium and Seller's search charges.

Permissible exceptions to title shall include only the lien of general taxes and special assessments; zoning laws and building ordinances; easements, apparent or of record; and covenants and restrictions of record which do not restrict reasonable use of the Real Estate. If title evidence discloses exceptions other than those permitted, Purchaser shall give written notice of such exceptions to Seller within a reasonable time. Seller shall have a reasonable time to have such title exceptions removed, or any such exception which may be removed by the payment of money may be cured by deduction from the purchase price at the time of closing. If Seller is unable to cure such exception, then Purchaser shall have the option to proceed with closing with no further claims, or by written notice to terminate this Contract, in which case this Contract shall be terminated and of no effect.

Section 5. Conveyance. Conveyance shall be by general warranty deed to Buyer with release of dower and homestead rights.

Section 6. Taxes and Assessments. General taxes and special assessments (if any) shall be paid by Seller for annual amounts owed through the date of closing. The proration thereof shall be calculated upon the basis of the most current tax information, including confirmed multipliers. Transfer tax and all special assessments which are a lien upon the Real Estate as of the date of this Contract shall be Seller's expense. All such taxes and special assessments shall constitute a credit to Purchaser against the purchase price, and shall release Seller from any further liability to Purchaser in connection therewith.

Section 7. Closing and Possession.

(a) Closing. The closing of this transaction shall occur on or before June 15, 2006, at 400 South Vine Street, Urbana, Illinois 61801.

(b) Possession. Possession shall be delivered to Buyer at time of closing.

Section 8. This agreement is expressly contingent upon approval by the Urbana City Council prior to closing.

Section 9. Special Contingencies. Purchaser may obtain an environmental analysis of the Real Estate described in section 1 above, and this Contract is contingent upon Purchaser receiving that analysis showing no substantial environmental defects. If Purchaser does not approve the environmental analysis, then Purchaser shall give notice to Seller so that the notice is received on or before 5:00 p.m. on May 31, 2006. Such notice

shall indicate the substantial deficiency causing Purchaser to enforce this contingency and shall indicate that Purchaser chooses to terminate this Contract. If Purchaser does not so provide Seller with such notice by said time, then the contingency in this paragraph is of no effect, and the Contract will be in full force. If the City chooses to acquire the Real Estate, it agrees to take it "as is," and the City agrees to hold Seller harmless from any and all claims against the property or the owners of the property, if such claims are related to any environmental issue; and such agreement shall survive the closing date.

Section 10. Notices. All notices to Seller shall be addressed as follows:

Mr. Jack Troxell
1408 Theodore Drive
Champaign, Illinois 61821

With copy to:

George G. Bryan
Attorney at Law
P.O. Box 99
Urbana, IL 61803-0099

All notices to Purchaser shall be addressed as follows:

Bruce K. Walden, Chief Administrative Officer
City of Urbana
400 South Vine Street
Urbana, IL 61801

All notices provided for herein shall be deemed to have been duly given, if and when deposited in the U.S. Mail, postage prepaid and addressed to Seller at the above address, or when delivered personally to such party.

Section 11. Default and Enforcement. Default under this Contract shall mean failure to timely and fully perform any term or provision hereof after proper notice. The party claiming a default on the part of the other party shall provide a written notice of that claim to the other party. The other party will have 30 days after receipt of said notice to cure said alleged default. If a cure is not reasonably possible within a 30-day cure period, then the cure period will be extended to a reasonable time, so long as the party which would otherwise be in default continues to diligently pursue the resolution of the potential default. Seller and Purchaser shall have all rights and remedies available to them in law and in equity. Seller shall be liable for any consequential damages to the City with respect to any willful default to close on the Real Estate transaction as hereby contemplated. A willful default is defined, for the purposes of this agreement, as a refusal to continue with obligations under this agreement under circumstances where, but for the refusal of the seller, the transaction could otherwise be closed as hereby contemplated. No failure by Seller or Purchaser to elect to declare a default hereunder shall be deemed a waiver of their respective rights to make such election, and a waiver in one case shall not be a waiver of another. Default by Seller or by Purchaser shall entitle the non-defaulting party to claim as damages all reasonable costs, attorneys' fees and expenses incurred in connection with enforcement of this Contract, whether by suit or otherwise.

Section 12. Agreements and Binding Effect. This Contract shall be binding upon Seller and Purchaser and their respective successors and assigns, according to its tenor and import. When any term or provision of this Contract directs that any party hereto perform or undertake a particular action, such party hereby covenants and agrees to timely and fully perform. Time is the essence of this Contract.

Section 13. Amendments. This Contract may be amended from time to time, but only in writing by Seller and Purchaser.

Section 14. Execution and Counterparts. This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. By executing this Contract, the persons executing it as Seller covenant that they are the record owners of the Real Estate, and all of the record owners thereof, and have full power and authority to so execute and deliver this Contract. Section headings are for convenience only and do not limit the effectiveness of any section.

Section 15. RESPA/TRA. Seller and Buyer hereby agree to make all disclosures and to sign all documents necessary to allow full compliance with the provisions of the Real Estate Settlement Procedures Act of 1974, as amended, and the Tax Reform Act of 1986.

Section 16. Entirety of Agreement. This Contract contains the entire agreement between the parties and NO ORAL REPRESENTATION, warranty or covenant exists other than those herein set forth. References to singular parties shall apply to plural parties as well.

Section 17. Taxpayer Identification Number. Seller agrees to provide appropriate taxpayer identification number to Buyer ten (10) days prior to closing.

Section 18. Time of the Essence. The time for performance of the obligations of the parties is of the essence of this Contract.

Section 19. That this Agreement is binding upon successors, assignees, heirs and devisees of the parties.

IN WITNESS WHEREOF, the parties hereto have signed this contract as of the date of the last to sign below.

SELLER'S SIGNATURE

BUYER'S SIGNATURE

THE CITY OF URBANA, ILLINOIS

By: _____
Bruce Walden
Chief Executive Officer

Taxpayer Identification #:

Date _____ Time _____

Date _____ Time _____



Proposed Troxell Property Acquisition

