



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Grants Management Division*

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

**TO:** Elizabeth H. Tyler, FAICP, Director, Community Development Services

**FROM:** Kelly H. Mierkowski, Manager, Grants Management Division

**DATE:** June 24, 2016

**SUBJECT:** **AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL ESTATE (401-403 E. Kerr Avenue)**

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### **Description**

Included on the agenda of the June 28, 2016 meeting of the Community Development Commission is an Ordinance Authorizing the sale of 401 and 403 East Kerr Avenue. The property has been owned by the City of Urbana since 2004 and has been held by the City in anticipation of the Highland Green affordable housing development. The sale of the subject properties would allow the development team, consisting of Brinshore Development, LLC, the Homestead Corporation of Champaign-Urbana, and the Housing Authority of Champaign County, to take possession of the property and begin construction on the complex in summer/fall of 2016. The Homestead Corporation of Champaign-Urbana will initially take possession of the property from the City.

This transfer of real estate will help to facilitate the construction of affordable housing at the subject properties, which has been a goal of the Mayor and City Council for several years. That goal has also been expressed in various other City documents, including the Urbana City Mayor and Council Goals, the 2005 Urbana Comprehensive Plan, the 2010-2014 City of Urbana and Urbana HOME Consortium Consolidated Plan, and the 2015-2019 City of Urbana and Urbana HOME Consortium Consolidated Plan.

### **Issues**

The issue is whether the Community Development Commission should recommend that the Urbana City Council approve the Ordinance Authorizing the sale of 401-403 E. Kerr Avenue.

### **Background**

Highland Green was approved for Low-Income Housing Tax Credits (LIHTC) by the Illinois Housing Development Authority (IHDA) on October 20, 2015. LIHTC provide a critical

financing mechanism. The project was denied LIHTC in previous years due to stiff competition, and the recent approval was an important breakthrough which has allowed this development to proceed financially.

If the City were to transfer this property to the Highland Green development team, the developers could minimize costs by beginning construction as soon as possible. Also, the use of the proposed Urbana HOME Consortium federal funds on this project necessitates that the developers begin construction within 12 months of signing the agreement dedicating HOME funds.

## **Options**

1. Approve the Ordinance Authorizing the Sale of Certain Real Estate (401-403 E. Kerr Avenue).
2. Approve the Ordinance Authorizing the Sale of Certain Real Estate (401-403 E. Kerr Avenue) with amendments.
3. Do not approve the Ordinance.

## **Fiscal Impacts**

The properties are not currently generating tax revenue because they are owned by the City. However, according to an analysis completed by the developer, the development will contribute approximately \$1,150 annually per unit to all taxing bodies. This estimate amounts to a total of roughly \$38,000 per year for the entire 33-unit development, and \$4,819 per year for the City of Urbana. Portions of the project may also be eligible for tax abatement under the City's new Enterprise Zone.

## **Programmatic Impacts**

Construction of affordable housing at the Highland Green site has been a goal of the Mayor and City Council for several years and that goal has been expressed in various City documents, including the Urbana City Mayor and Council Goals, the findings of the 2007 Kerr Avenue Sustainable Neighborhood Design Charrette, the 2005 Urbana Comprehensive Plan, the 2010-2014 City of Urbana and Urbana HOME Consortium Consolidated Plan, and the 2015-2019 City of Urbana and Urbana HOME Consortium Consolidated Plan.

## **Recommendations**

Staff recommends that the Community Development Commission forward the Ordinance Authorizing the Sale of Certain Real Estate (401-403 E. Kerr Avenue) to the Urbana City Council with a recommendation for approval.

Prepared by:



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**Matthew Rejc**  
**Community Development Coordinator**  
**Grants Management Division**

## **Attachments**

1. AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL ESTATE (401-403 E. Kerr Avenue)
2. Real Estate Transfer Agreement
3. Location Map

**AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN REAL ESTATE**

**(401-403 E. Kerr Avenue)**

WHEREAS, pursuant to Subsection (b) of Section 2-118 of the Urbana City Code, any real estate now owned by the City may be sold in any manner prescribed by the City Council in an ordinance authorizing such sale; and

WHEREAS, the City is desirous of selling certain real property (the "parcels"), commonly known as 401 and 403 East Kerr Avenue, Urbana, Illinois, and legally described in Exhibit "A" attached hereto; and

WHEREAS, the City Council expressly finds and declares that said parcel is not needed for governmental purposes or propriety activity of the City of Urbana; and

WHEREAS, the Homestead Corporation of Champaign-Urbana is desirous of purchasing said parcel; and

WHEREAS, after due publication of notice in accordance with Subsection (a) of Section 2-118 of the Urbana City Code, the City Council held a public hearing to consider the proposed sale on July 5, 2016; and

WHEREAS, the Mayor and City Council find that the best interests of the city are served by sale of the Subject Property to the Homestead Corporation of Champaign-Urbana.

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

Section 1. The contract between the City of Urbana, Homestead Corporation of Champaign-Urbana, for Real Estate Parcels located at 401-403 East Kerr Avenue, Urbana, Illinois, in substantially the form of the copy of said contract attached hereto as Exhibit A, 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, be and the same is authorized to attest to said execution of said contract as so authorized and approved for an on behalf of the City of Urbana, Illinois.

Section 3. This Ordinance is hereby passed by the affirmative vote, the ayes and nays being called, of three-fourths of the members of the Council of the City of Urbana, Illinois at a regular meeting of said Council.

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

**Exhibit A:**  
**REAL ESTATE TRANSFER AGREEMENT**

This agreement is made between the City of Urbana, Illinois, a municipal corporation of the State of Illinois (the "Seller"), and Homestead Corporation of Champaign-Urbana, an Illinois corporation (the "Buyer"), each a "party" and together the "parties," and is effective on the last date signed by a party hereto. The parties agree as follows:

1. **Sale.** Seller agrees to sell and convey, and Buyer agrees to buy, the following described parcel of real estate (the "Subject Property"):

A PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF MACKEY SUBDIVISION, AS SHOWN ON A PLAT RECORDED JUNE 19, 1968 AS DOCUMENT NUMBER 778353 IN THE OFFICE OF THE RECORDER OF DEEDS, CHAMPAIGN COUNTY, ILLINOIS, SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF KERR AVENUE; THENCE, SOUTHERLY, ALONG THE EAST LINE OF LOTS 1 THROUGH 4 INCLUSIVE OF SAID MACKEY SUBDIVISION, 245.30 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 4, SAID POINT ALSO BEING ON THE NORTHERLY LINE OF CRYSTAL VIEW TOWNHOMES FIRST SUBDIVISION, AS SHOWN ON A PLAT RECORDED MARCH 24, 2009 AS DOCUMENT NUMBER 2009R07821 IN THE OFFICE OF THE RECORDER OF DEEDS, CHAMPAIGN COUNTY, ILLINOIS; THENCE, EASTERLY, ALONG SAID NORTHERLY LINE OF CRYSTAL VIEW TOWNHOMES FIRST SUBDIVISION, 30.41 FEET, TO A NORTHEASTERLY CORNER OF SAID CRYSTAL VIEW TOWNHOMES FIRST SUBDIVISION; THENCE, SOUTHERLY, ALONG AN EASTERLY LINE OF SAID CRYSTAL VIEW TOWNHOMES FIRST SUBDIVISION, 234.32 FEET, TO THE NORTHWESTERLY CORNER OF LOT 7 OF ANDREW BARR'S SUBDIVISION AS SHOWN ON A PLAT RECORDED OCTOBER 5, 1894 IN PLAT BOOK A AT PAGE 257 IN THE OFFICE OF THE RECORDER OF DEEDS, CHAMPAIGN COUNTY, ILLINOIS; THENCE, EASTERLY, ALONG THE NORTH LINE OF SAID ANDREW BARR'S SUBDIVISION, 274.26 FEET, TO THE WESTERLY LINE OF THE EAST 205 FEET 4 INCHES OF THE NORTH 30 RODS OF LOT 30 OF A SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS PER PLAT RECORDED IN PLAT BOOK "R" AT PAGE 238; THENCE, NORTHERLY, ALONG SAID WESTERLY LINE OF THE EAST 205 FEET 4 INCHES OF LOT 30, 475 FEET, TO ITS INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF KERR AVENUE; THENCE, WESTERLY, ALONG SAID

SOUTHERLY RIGHT OF WAY LINE, 304.67 FEET, TO THE POINT OF BEGINNING.

SAID TRACT CONTAINING 3.17 ACRES, ALL SITUATED IN THE CITY OF URBANA, CHAMPAIGN COUNTY AND BEING COMMONLY KNOWN AS 401 AND 403 EAST KERR AVENUE.

PERMANENT INDEX NUMBERS: 91-21-08-280-035 AND 91-21-08-280-009.

2. **Price.** Seller agrees to convey title to Subject Property for \$10.00 and other consideration as described herein.
3. **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 physical condition of Subject Property.
4. **Use of Subject Property.** The primary purpose of Buyer's activities undertaken pursuant to this agreement is construction of a 33-unit affordable rental development (the "Project").
5. **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.
6. **Title.**
  - A. The Buyer shall obtain a commitment for title insurance issued by a title insurance company doing business in Champaign County, committing the company to issue a policy in the usual form insuring title to the Subject Property in the Buyer's name for the purchase price or the minimum amount of title insurance, whichever is greater. The Buyer shall pay the premium, search, and other charges for such policy. Within a reasonable time before closing, the Buyer shall deliver a copy of the commitment for title insurance to the Seller.
  - B. 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.
7. **Taxes and assessments.** The Subject Property is exempt from payment of real estate taxes in accordance with 35 ILCS 200/15-75, and, thus, there is no need for provision of real estate tax payment. The Seller represents to the Buyer that no bills for utilities or other taxes associated with the Buyer's possession and use of the Premises, including but not limited to water, gas, electric, cable television, sewage treatment, sewer use taxes, stormwater utility fees, and recycling taxes, will be outstanding and not fully satisfied at the time of closing.

8. **Closing; possession.** The parties shall hold the closing not later than 30 days after the Seller's City Council approves this agreement, as provided in Paragraph 17. The closing will take place at the Urbana City Building, 400 S. Vine Street, Urbana, Illinois, 61801, or at such other place as the parties may agree. The Seller shall deliver possession of the Premises to the Buyer concurrently with the closing of this transaction.

9. **Environmental review.** Notwithstanding any other provision of this agreement, Buyer shall have no obligation to purchase the Subject Property, and no transfer of title to the Buyer may occur, unless and until Illinois Housing Development Authority has provided Buyer and/or Seller with a written notification that:

- A. It has completed a federally required environmental review and its request for release of federal funds has been approved and, subject to any other contingencies in this agreement:
  - (1) the purchase may proceed; or
  - (2) the purchase may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the Subject Property; or
- B. It has determined that the purchase is exempt from federal environmental review and a request for release of funds is not required. Illinois Housing Development Authority shall use its best efforts to conclude the environmental review of the property expeditiously.

10. **Compliance with governmental requirements.** Buyer shall construct the Project in accordance with all applicable land development, zoning, and building codes, the visibility standards of the Seller, a site plan first approved by the Seller's Community Development Services Department, 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. This covenant shall remain in full force and effect following the closing of this transaction.

11. **Construction schedule.** Buyer agrees to construct the Project on the Subject Property on or before July 5, 2017, or, on or before a date established in any modification to this agreement. This covenant shall remain in full force and effect following the closing of this transaction.

12. **Assignment.** Buyer shall not assign this agreement without prior written consent of Seller to such assignment. This covenant shall remain in full force and effect following the closing of this transaction.

13. **Default.** If Buyer fails to perform any obligation imposed upon it by this agreement, Seller may serve written notice of default upon Buyer and if such default is not corrected within ten (10) days thereafter, this agreement shall terminate. In the event of failure of Seller to perform obligations imposed upon it by this agreement, Buyer may terminate this agreement



upon similar notice served upon Seller and similar expiration of time. 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 agreement.

14. **Entire agreement.** This agreement constitutes the entire agreement between the parties. It supersedes all other agreements or understandings between them pertaining to the matter of this agreement and may not be modified except by a writing signed by both parties.

15. **Notices.** Except where the terms of this agreement expressly provide otherwise, the parties shall give all notices required or permitted by this agreement in writing, at the address shown herein above each party's signature, unless another address is provided in writing. Notices will be deemed given when personally delivered; deposited in the U.S. mail, postage prepaid, first class; or delivered to a commercial courier.

16. **Authority.** Each party represents to the other that the person signing this agreement on behalf of the party is authorized and empowered to enter into this agreement by and on behalf of such party and that this agreement is a legal, valid, and binding obligation of such party, enforceable against the other in accordance with its terms.

17. **City Council approval.** This agreement will be valid only after the Seller's City Council approves it by resolution or ordinance. If the Seller's City Council does not approve this agreement, this agreement will terminate and will be of no further force or effect, and the parties will be relieved of all liability to each other hereunder.

18. **Terms binding.** All terms of this agreement are binding upon the heirs, legatees, devisees, representatives, and assignees of the parties.

19. **Counterparts.** The parties are permitted to sign this agreement in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Signatures delivered by email in Adobe Portable Document Format (PDF) or by facsimile will be deemed original signatures for all purposes.

[Signature page follows]

The parties are signing this agreement on the dates indicated below their signatures.

**Buyer**

**Seller**

Homestead Corporation of Champaign-Urbana  
306 West Griggs Street  
Urbana, Illinois 61801-2676

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

By: \_\_\_\_\_  
TBD  
President  
Date:

By: \_\_\_\_\_  
Laurel Lunt Prussing  
Mayor  
Date:

Attest:

\_\_\_\_\_  
Phyllis Clark  
City Clerk

STATE OF ILLINOIS )  
 )  
COUNTY OF \_\_\_\_\_ )

ss.

I, the undersigned, a notary public in and for the said County, in the State aforesaid do hereby certify that \_\_\_\_\_ 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, sealed and delivered the said instrument in his capacity as the duly authorized \_\_\_\_\_ of Homestead Corporation of Champaign-Urbana as his free and voluntary act, and the free and voluntary acts of Homestead Corporation of Champaign-Urbana for the uses and purposes therein set forth.


GIVEN under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Notary Public



Kerr Avenue

Cunningham Avenue

 Subject Parcels (401-403 E. Kerr Ave.)