



Legislation Text

File #: 11-0923, **Version:** 1

Resolution to Approve Amendment No. 7 to the Option to Purchase Agreement with Village Green Residential Properties LLC (**8 votes required**)

Village Green Residential Properties LLC has an Option to Purchase Agreement with the City to acquire and develop the City-owned site located at the corner of First and Washington. The Option Agreement was approved by City Council on February 20, 2007 and was last amended on April 19, 2011 to extend the term to August 30, 2011.

Since the last extension, which was provided due in part to the inclusion of a “bathtub” design for the deck, the developer has initiated the work on the construction documents. These documents are expected to be the final documents before construction commences. While preparing these documents, the City, DDA, and Village Green have identified several modifications that should be made in order to provide a deck that operates effectively as a public parking structure. Some of these modifications include reducing the size of columns, potentially changing the location of some columns, addressing potential visibility and durability issues with the stairways to the extent permitted by the building code, etc. The mutual resolution to these items took longer than anticipated and has necessitated this request for a brief extension of the option agreement.

The developer still anticipates breaking ground this construction season and is anxious to do so. The attached extension requires a non-refundable \$50,000 payment from the developer to the City as an expression of their commitment to delivering this project. In exchange, the City would agree to an extension until November 3, 2011. It also permits an additional 30 day extension to December 3, 2011 at the City Administrator’s discretion for an additional \$50,000 non-refundable payment.

Council may recall the proceeds from the sale of this property were planned to complete the financing for the construction of the Court/Police building. With this delay there is a need for the city to provide short-term financing for the Court/Police building until the sale of the First and Washington property closes. Staff is working on this financing and anticipates bringing a recommendation to Council at the August 15, 2011 council meeting.

Staff recommends Council approve the amendments as described above and included as attached.
Prepared by: Tom Crawford, Interim City Administrator and Mary Joan Fales, Senior Assistant City Attorney

Approved by: Tom Crawford, Interim City Administrator

Whereas, On February 20, 2007, City Council approved an Option to Purchase Agreement with Village Green Residential Properties, LLC (“Village Green”) for the parcel of land located at the corner of First and Washington Streets which has subsequently been amended and extended under the terms of the Option to August 30, 2011;

Whereas, The City and Village Green have negotiated in good faith the further extension of the Option Agreement, in consideration of payment to the City of additional earnest monies to be credit to the purchase price at closing, to allow both parties sufficient time for completion of all required

agreements and supplemental documents; and

Whereas, Village Green has aggressively prosecuted the milestones and goals set forth in Amendment No. 5 and has agreed in consideration of the City's grant of an extension of the term of the Option to a new Project Milestone requiring Village Green to submit complete construction plans, building permit applications and civil construction plans for the Project along with all necessary fees to the City on or before August 30, 2011;

RESOLVED, That City Council approve Amendment No. 7 to the Option to Purchase Agreement with Village Green Residential Properties, LLC, which amendment, extends the term of the Option and requires the payment of additional earnest money by Village Green and its compliance with an additional Project Milestone as conditions for the grant of the extension of time by the City;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute Amendment No. 7 after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator be authorized to take all necessary steps to implement this Resolution.