



## Legislation Text

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**File #:** 11-1438, **Version:** 1

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Resolution to Approve Purchase Agreement for the Purchase of the City-owned First and Washington Property by Ann Arbor City Apartments, LLC (Successor-in-Interest to Village Green Residential Properties, LLC) and Appropriate the Sale Proceeds **(8 Votes Required)**

Attached for your review and action is a resolution to approve a purchase agreement for the purchase of the City First and Washington property to Ann Arbor City Apartments, LLC, successor-in-interest to Village Green Residential Properties, LLC ("Ann Arbor City Apartments")

On August 10, 2006, City Council approved the recommendation of the First and Washington RFP Review Committee for the City to enter into negotiations with Village Green Residential Properties, LLC ("Village Green") for the sale and redevelopment of the site located at the southeast corner of First and Washington in the downtown district of Ann Arbor ("First and Washington property"). At that time Council anticipated the redevelopment of the First and Washington property as a Planned Unit Development which would achieve the following City goals:

- Increase downtown residential density and diversity
- Replace public parking spaces on the site
- Maximize the financial return to the City for the sale of the land
- Maximize TIF revenue to the Ann Arbor Downtown Development Authority for the redevelopment of the site

Since that date, negotiations between the City, Village Green and the DDA have resulted in an approved Option Agreement, an approved site plan, parking agreement and resolution of all conditions for acquisition of the property by Village Green consistent with Council's goals for the redevelopment of the site.

Under the terms of the Option Agreement, Village Green could assign its interest in the Option and all related agreements to an entity formed in accordance with the terms of the Option Agreement. Ann Arbor City Apartments, LLC, a Delaware limited liability company, was created on October 18, 2011 and will be the successor-in-interest assigned the Option and all related agreements held by Village Green Residential Properties, LLC on or before November 10, 2011.

### **Purchase Agreement:**

The City has established a sale price of \$3,200,000.00 for the City-owned parcel commonly known as the "First and Washington Property" and entered in to an option to sell the property to its selected developer, Village Green.

Village Green, having satisfied all terms and conditions of its option agreement with the City and provided the City with notice of its assignment of its Option, as authorized by the terms of the Option, to Ann Arbor City Apartments, LLC and of its successor-in-interest's intent to exercise the Option on November 3, 2011.

The attached resolution approves the Purchase Agreement contingent on the following:

- The warranty deed delivered to Ann Arbor City Apartments shall include reversion of title (or power of termination) in favor of the City if Ann Arbor City Apartments fails to (i) commence construction on the Real Property within three (3) years from final approval of the site plan and development agreement for the Real Property by the City of Ann Arbor or (ii) complete all

construction activities and obtain certificates of occupancy for all units of the rental residential building and the parking garage within the term of the required permits for construction.

- The warranty deed delivered to Ann Arbor City Apartments shall include the reservation of the right of the City of Ann Arbor to mount an antenna for the purposes of wireless voice and data access on the property at the City's cost
- The property shall be subject to a Affordable Housing Covenant, running with the land, satisfactory to the City of Ann Arbor, to be recorded at Closing with terms and conditions consistent with the Ann Arbor City Apartments Development Agreement (Provision P-16) and the Ann Arbor City Apartments PUD Zoning Supplemental Regulations Section 4(L).

**Project Budget:**

Purchase Price:	\$3,200,000.00
Earnest Money Deposits Received by the City	<u>\$ (103,000.00)</u>
Funds Payable at Closing	\$3,097,000.00

Less City Closing Costs:

Estimated Closing Costs (incl. title insurance, Closing fee)	\$ (5,000.00)
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Estimated Net Proceeds to City from Sale: \$3,092,000.00

The resolution appropriates the net proceeds to the City from the sale as follows: \$2,500,00.00 is appropriated to the Municipal Center Project Fund; \$500,000 is appropriated to the Risk Fund as reimbursement for an advance made as of June 30, 2011, and the remainder after adjustment for City closing costs is appropriated to the General Fund in Non-Departmental.

Prepared by: Mary Joan Fales, Senior Assistant City Attorney

Reviewed by: Tom Crawford, CFO/Finance and Administrative Services Area Administrator  
Stephen K. Postema, City Attorney

Approved by: Steven D. Powers, City Administrator

Whereas, The City is the owner of a certain parcel of real estate commonly described as "First and Washington Property;

Whereas, Village Green was selected by the City to develop the First and Washington Property subject to the conditions set forth in City Resolution No. R-354-8-06, dated August 10, 2006;

Whereas, The City and Village Green entered into an Option Agreement for the Purchase of Land, dated February 20, 2007, ("Original Option") which has thereafter been amended by Amendment No. 1, approved February 4, 2008, Amendment No. 2, approved December 1, 2008, Amendment No. 3, approved May 18, 2009, Amendment No. 4, approved June 21, 2010, Amendment No. 5, approved August 5, 2010, Amendment No. 6, approved June 6, 2011 and Amendment No. 7, approved August 4, 2011 (collectively "the Option") whereby Village Green was given the exclusive option to purchase the Property for a limited period of time, subject to a series of terms and conditions and subject to Village Green's continued prosecution of all elements necessary to the timely commencement and completion of the development of the First and Washington Property in accordance with the Village Green Proposal;

Whereas, Village Green has served notice on the City of its assignment of its rights under the Option, in accordance with the terms of Option, to Ann Arbor City Apartments, LLC;

Whereas, Ann Arbor City Apartments, LLC, as successor-in-interest of Village Green, has served notice on the City of its intent to exercise the Option; and

Whereas, It being determined that Ann Arbor City Apartments, LLC and/or its predecessor-in-interest Village

Green has satisfied all conditions set by the City for execution of the Option;

RESOLVED, That City Council approve the purchase agreement for the sale of the City-owned First and Washington property to Ann Arbor City Apartments, LLC subject to the restrictive covenants

- The warranty deed delivered to Ann Arbor City Apartments shall include reversion of title (or power of termination) in favor of the City if Ann Arbor City Apartments fails to (i) commence construction on the Real Property within three (3) years from final approval of the site plan and development agreement for the Real Property by the City of Ann Arbor or (ii) complete all construction activities and obtain certificates of occupancy for all units of the rental residential building and the parking garage within the term of the required permits for construction.
- The warranty deed delivered to Ann Arbor City Apartments shall include the reservation of the right of the City of Ann Arbor to mount an antenna for the purposes of wireless voice and data access on the property at the City's cost
- The warranty deed delivered to Ann Arbor City Apartments shall be subject to a restrictive covenant, running with the land, satisfactory to the City of Ann Arbor, to be recorded at Closing with terms and conditions consistent with the Ann Arbor City Apartments Development Agreement (Provision P-16) and the Ann Arbor City Apartments PUD Zoning Supplemental Regulations Section 4(L).

and which restrictive covenants stated shall be enforceable by the City of Ann Arbor so long as Ann Arbor City Apartments, LLC or its successors own the property, and/or any unit in any condominium created by Master Deed for the Ann Arbor City Apartments Condominium;

RESOLVED, That City Council authorize the Mayor and City Clerk to execute the Purchase Agreement and all other documents necessary to complete purchase after approval as to form by the City Attorney; and approval as to substance by the City Administrator;

RESOLVED, That the net sales proceeds be appropriated when received in the amounts specified to the following funds:

Municipal Center Project Fund	\$2,500,000.00
Risk Fund:	500,000.00
General Fund, Non-Departmental	Remainder after adjustment for Closing Costs

to be available for expenditure without regard to fiscal year; and

RESOLVED, That the City Administrator, or his authorized designee, is authorized to take all necessary actions to implement this Resolution, including execution of all Closing documents and any supplemental documents required by the Purchase Agreement after approval as to form by the City Attorney.