



Legislation Text

File #: 10-0633, **Version:** 1

Resolution to Approve Amendment No. 4 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 Council on February 20, 2007 and will expire on June 30, 2010.

Under the terms of the Option Agreement the Developer was required to meet certain project goals and demonstrate measurable progress towards developing the property in order to exercise the Option. At this point in the project the Developer has:

- Completed the site plan process. Approved sealed site plans are on file with the City. The Development Agreement for the property has been approved.

- An approved Parking Agreement between the Developer, the City and the DDA has been executed.

- Public Meetings were held early in the design process with the community and involved citizen groups like the Downtown Citizens Advisory Board.

When the Option term was extended in May 2009, the Developer demonstrated, based on the unanticipated U.S. financial market downturn at that time, reasonable progress toward obtaining the necessary financing for the project. The Developer has now identified its intended financing partners to the City and provided the City with offer of commitment letters from those financing partners. Village Green anticipates continued progress toward finalizing its construction financing plan with these partners over the next few months.

Recognizing the Developer's satisfaction of preliminary project goals to exercise the Option as well as the City's need for continued measurable progress, the Administration is recommending the amendment of the current Option term for thirty-six days (coinciding with the August 5, 2010 City Council meeting) to allow the Developer, the Administration and the City Attorney's office to negotiate a specific timeline for performance related to the remaining project goals necessary for exercise of the Option. On August 5, 2010, City Council would be presented with a comprehensive Option that included project goals (including a detailed description of what is anticipated to be completed as part of each project goal); timelines for each project goal and appropriate remedies for termination of the Option should the Developer fail to comply with the established timelines.

Prepared by: Mary Joan Fales, Senior Assistant City Attorney

Reviewed by: Tom Crawford, CFO; Stephen K. Postema, City Attorney

Whereas, On February 20, 2007, City Council approved an Option to Purchase Agreement with Village Green Residential Properties, LLC for the parcel of land located at the corner of First and Washington Streets in Ann Arbor which has been subsequently amended on February 4, 2008, December 1, 2008 and May 18, 2009;

Whereas, In October 2007, a Parking Agreement was approved by the City, DDA and Village Green for this project which was subsequently amended by the parties in January 25, 2008;

Whereas, During the Option term, Village Green has completed the site plan process for the property and Council has approved the Development Plan for the project;

Whereas, During the Option term, Village Green has aggressively pursued financing for the construction of the project and has presented to the Administration offer of commitment letters in support of financing the project;

Whereas, The City and Village Green have negotiated in good faith the further extension of the Option Agreement to allow for the completion of the Ann Arbor City Apartments project and the intended City goal of the development of the Property for residential housing, including a multi-level parking garage and conveyance of the garage to the City as a condominium unit upon its completion; and

Whereas, The City recommends a limited extension of the Option Agreement to finalize the negotiations with Village Green and present to City Council a comprehensive project timeline for prosecution of the project including the securing the necessary construction financing;

RESOLVED, That City Council approve Amendment No. 4 of the Option Agreement extending the term of the Option to expire August 5, 2010;

RESOLVED, That the Mayor and City Clerk are authorized and directed to execute Amendment No. 4 to the Option Agreement 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 and directed to take all necessary actions to implement this Resolution.