



Legislation Text

File #: 09-0440, Version: 1

Resolution to Approve Amendment No. 3 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 with an amended expiration of May 31, 2009 including two one-month extensions authorized by the City Administrator as permitted for within the agreement.

The Agreement requires the developer to make reasonable progress towards developing the property in order to exercise the Option. The developer is at the point in their project where they are attempting to arrange for financing. The unanticipated and unprecedented collapse of the U.S. financial markets has made it very difficult for the developer to obtain bank financing. To date, progress is being made but moving slowly. The developer has provided and is working off of a timing plan which anticipates being able to close on the sale of the land by December 30, 2009.

In order to complete this project the Developer has requested an extension of the term of the Option Agreement until December 30, 2009. Staff recommends approving this extension plus authorization for two three-month extensions at the City Administrator's discretion. We expect this amendment to provide the developer sufficient time to complete their financing arrangements and close on the sale of the property.

Prepared by: Tom Crawford, Chief Financial Officer
Mary Joan Fales, Senior Assistant City Attorney

Reviewed by: Tom Crawford, Chief Financial Officer

Whereas, On February 20, 2007, City Council approved an Option to Purchase Agreement with Village Green Properties LLC for the parcel of land located at the corner of First and Washington Streets in Ann Arbor;

Whereas, In October 2007, a Parking Agreement was approved by the City, DDA and Village Green for this project;

Whereas, On January 25, 2008, the DDA and Village Green agreed to amendments to the Parking Agreement originally approved in October 2007 that addressed issues related to design, durability and cost;

Whereas, Village Green Properties LLC initiated the City's development process by submitting for site plan approval on January 28, 2007;

Whereas, On February 4, 2008, Amendment No. 1 to the Option Agreement was approved by City Council which extended the term of the Option and approved other minor changes to the Agreement;

Whereas, On December 1, 2008, Amendment No. 2 to the Option Agreement was approved by City

Council which extended the term of the Option and approved changes to the Agreement to reflect developments in how the anticipated project would be developed and transaction be structured;

Whereas, The City and Developer recognize that this development project has and continues to require more time than is available under the existing Option Agreement; and

Whereas, The City and Developer 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 convey the multi-level parking garage to the City as a condominium unit upon substantial completion of the garage;

RESOLVED, That City Council approve Amendment No. 3 of the Option Agreement extending the term of the Option to expire December 30, 2009, and authorize the City Administrator, if deemed necessary and in the best interest of the City, to further extend the term of the Option thereafter not more than twice for an additional period of not more than ninety (90) days per extension;

RESOLVED, That the Mayor and City Clerk are authorized and directed to execute Amendment No. 3 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.