

Agenda Report

September 3, 2013 City Council Meeting

September 3, 2013

Item No. 8

ISSUE: DUE DILIGENCE EXTENSION/PURCHASE AGREEMENT AMENDMENT

BACKGROUND:

As a reminder, in May, the City Council approved a purchase agreement with Hurd Land Company for the purchase of the 7.9 acres located at 63rd and Hickman Road. Part of the agreement allowed up to a 90 day due diligence period to finalize abstracts and surveys and for marketing purposes. The due diligence period officially ended Aug 22nd. At this point, he is working with several potential partners for the entire site, but does not have signed agreements. He is formally requesting an amendment to the original agreement extending the due diligence period up to September 27th. He feels this will be enough time to finalize the pending agreements or formulate a plan B.

Mayor Sullivan and I met with Mr. Hurd, his attorney and our City's representatives from NAI Optimum last week. He is working with multiple partners for numerous sections of the entire piece of property, ranging from retail to multi-family housing. Our team feels confident that he will be able to finalize an agreement with his partners so the purchase agreement can be finalized.

RECOMMENDATION:

Mayor Sullivan and I recommend the City Council adopt Resolution 13-0958 formally amending the purchase agreement to allow an extension in the due diligence period.

STAFF CONTACTS:

Jeffrey A. Fiegenschuh, City Administrator

David J. Sullivan, Mayor

HOGAN LAW OFFICE

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DES MOINES, IOWA 50312
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FAX (515) 277-5836

TIMOTHY C. HOGAN
LAWRENCE I. JAMES, JR.

August 22, 2013

VIA EMAIL AND USPS

City of Windsor Heights
Attn: Mayor Jerry Sullivan
1133 66th Street
Windsor Heights, IA 50264
jsullivan@windsorheights.org

NAI Optimum
Attn: Chris Stafford
1701 48th Street, Suite 111
West Des Moines, IA 50266
cstafford@ruhlcommercial.com

RE: **Request to Extend Due Diligence Review**

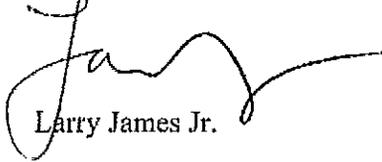
Gentlemen:

Reference is made to that certain Purchase and Sale Agreement with an Effective Date of May 20, 2013 (as amended, the "PSA") between City of Windsor Heights, Iowa ("Seller") and Hurd Land Company, LLC ("Purchaser").

Purchaser respectfully requests an extension of its Due Diligence Review under Paragraph 9 of the PSA to September 27, 2013 ("Extension"). Purchaser is working closely with a prospective buyer of a portion of the property, but has not yet reached an agreement.

Please let me know if this Extension is acceptable to the Seller. If so, I will prepare an Amendment to the PSA for the signatures of Seller and Purchaser.

Sincerely,



Larry James Jr.

Cc : Richard W. Hurd ; Jeff Fiegenschuh ; Larry Cedarstrom

CITY OF WINDSOR HEIGHTS, IOWA

RESOLUTION 13-0958

**RESOLUTION APPROVING AND AUTHORIZING OF A FIRST
AMENDMENT TO THE REALESTATE PURCHASE AGREEMENT
BY AND BETWEEN THE CITY OF WINDSOR HEIGHTS AND
HURD LAND COMPANY, L.L.C.,**

WHEREAS, the City, at its May 20th, 2013 meeting, approved a purchase agreement with Hurd Land Company, L.L.C., an Iowa limited liability company, for the purchase of approximately 7.9 acres of real property owned by the City which is bordered by Hickman Road to the North, 63rd Street to the East, legally described as part of Lots 1 through 6, Suburban Farms, City of Windsor Heights, Polk County, Iowa (the "Property"); and

WHEREAS, Hurd Land Company, L.L.C., an Iowa limited liability company, is requesting an amendment to the original purchase agreement; and

WHEREAS, the City Council has determined that it is in best interests of the City to approve the amendment to the purchase agreement in an effort to help create new jobs and expand the City's tax base; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WINDSOR HEIGHTS, IOWA:

The Council does hereby formally amends section 9 of the purchase agreement titled **Real Estate Due Diligence** to extend the due diligence period from Aug 22nd, 2013 to September 27th, 2013.

PASSED AND APPROVED this 3rd day of September, 2013.

David J. Sullivan, Mayor

ATTEST:

Jeffrey A. Fiegenschuh, City Administrator/Clerk