



Legislation Text

File #: 46745, **Version:** 1

Fiscal Note

No fiscal impact.

Title

Amending Resolution Enactment No. RES-16-00567, which authorizes the execution of a Purchase and Sale Agreement between the City and Greywolf Partners, Inc. for the purchase of City-owned Lots 21-23 and Lots 32-34 in The Center for Industry & Commerce to extend the due diligence period.

Body

WHEREAS, on August 2, 2016 the execution of a Purchase and Sale Agreement with Greywolf Partners, Inc. ("Buyer") to acquire the City owned lots 21-23 and Lots 32-34 in The Center for Industry and Commerce ("Property") was approved by the Common Council via Resolution Enactment No. RES-16-00567, File No. 43702 as amended on September 20, 2016 by RES-16-00702, File No. 44236 (together the "Resolution"); and

WHEREAS, during the Due Diligence Period, the Buyer decided that it does not need the northern portion of Grasskamp Way to be built and City Engineering agrees to discontinue and vacate this short street given the southern portion of this road already was vacated; and

WHEREAS, the Buyer has been working with a Fortune 500 company to lease space in the Building, but the lease has not been signed yet; and

WHEREAS, the Buyer requests an additional 180 day extension to the Due Diligence Period in exchange for an additional \$25,000 Earnest Money deposit.

NOW, THEREFORE, BE IT RESOLVED that the Resolution is hereby amended as follows:

1. Section 1 - "Property" is hereby amended to replace the stated square footage with 386,343.
2. Section 3 - "Purchase Price" is hereby amended to replace the stated Purchase Price with Nine Hundred Sixty Five Thousand Eight Hundred Fifty Seven and 50/100 Dollars (\$965,857.50).
3. Section 4- "Earnest Money" is hereby deleted in its entirety and replaced with the following:

The Buyer acknowledges that the previous Earnest Money deposit (the "First Earnest Money Deposit") is non-refundable as of the Second Amendment Effective Date, except as otherwise provided in Paragraphs 6, 13, 19 and 21 of the Agreement.

In consideration of the extension of the Due Diligence Period, further described in Paragraph 6, the Buyer will deposit an additional Twenty Five Thousand and no/100 Dollars (\$25,000) ("Second Earnest Money Deposit") (together with the First Earnest Money Deposit, the "Earnest Money") within five (5) days of acceptance of this Second Amendment to the Title Company. The Earnest Money shall be applied toward the Purchase Price at Closing. Upon expiration of the Due Diligence Period, if Buyer is not able to satisfy its contingencies, Buyer may, at Buyer's sole and absolute discretion and with or without cause, terminate the Agreement by providing written notice of termination to Seller on or before the expiration of the Due Diligence Period in which event, the Second Earnest Money Deposit shall be returned to Buyer, and the First Earnest Money Deposit shall be

considered forfeited to Seller as Seller's sole remedy, and the parties shall have no further obligation or liability under the Agreement except for any which survive the closing or early termination of the Agreement.

4. Section 6 - "Due Diligence Period" is hereby amended to change the definition of Due Diligence Period to: "From the Second Amendment Effective Date until October 4, 2017."
5. Section 7 - "Construction Contingency" is hereby amended to change the definition of Construction Deadline to: October 5, 2018.
6. Section 14 - "Limited Representations and Warranties: AS-IS Condition" is hereby amended to add the following sentence to the end of the Paragraph:

Buyer agrees that the City does not need to build the northern portion of Graaskamp Way from Hoepker Road to John Wall Drive.

7. Section 20 - "Notices" is hereby amended to delete Buyer's contact and replace with "Marilyn Herzberg, Director of Asset & Property Management", with an email address of marilyn@greywp.com <mailto:marilyn@greywp.com>.
8. Except as expressly amended herein, all other terms of the Agreement remain the same.

BE IT FURTHER RESOLVED that all other terms and conditions of the Resolution shall remain the same; and,

BE IT FINALLY RESOLVED that the Mayor and City Clerk are authorized to execute, deliver and record such documents and to take such other actions as shall be necessary or desirable to accomplish the purposes of this resolution all in a form to be approved by the City Attorney.