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RESOLUTION NO. 2022-23

**A RESOLUTION OF THE CITY OF LINCOLN CITY AUTHORIZING AND DIRECTING
EXTENSION AND RE-APPROVAL OF AN OPTION AGREEMENT TO INNOVATIVE
HOUSING, INC. , MANAGING MEMBER OF LINCOLN 25 LIMITED PARTNERSHIP,
FOR DISPOSITION OF CITY-OWNED REAL PROPERTIES FOR AFFORDABLE
HOUSING**

RECITALS

- A. The City is the legal owner of real property located in proximity to the terminus of NE 25th Street, north of the St. James Santiago Episcopal church, consisting of two tax lots together with some easement provision for access through 2510 N. Highway 101, Lincoln City, Oregon. The lots involved in the conveyance include Recording Doc: 2009-14354 [07-11-11-BB-04302-00 (Westerly Parcel)] and Recording Doc: 2009-14355 [07-11-11-BB-04300-00 (Easterly Parcel)].
- B. The City is also the legal owner of real property located in front of the two City Lots referenced above, namely 2510 NE Highway 101, Lincoln City, Oregon, said property having been acquired by the City Urban Renewal Agency and transferred to City (recorded deed March 23, 2022). The Tax lot for this address is [Tax lot 07-11-11-BB-04301-00].
- C. In Resolution 2020-09 and Joint Resolution UR 2021-01, the City and the Urban Renewal Agency, following public hearings, granted Innovative Housing, Inc. (IHI) an option to purchase the above referenced properties for affordable housing purposes; IHI requires an extension of time for Lincoln 25 Limited Partnership to complete the purchase; and
- D. On June 27, 2022, the Lincoln City City Council, at the Council Chambers at 801 SW Highway 101, Lincoln City, Oregon conducted an advertised public hearing on the proposed extension/re-approval of the option to purchase the subject properties (three lots total), with numerous conditions, pursuant to ORS 221.725, ORS 271.310 and ORS 271.330.
- E. The advertised purpose of the option to purchase/future conveyance, and the reason the City Council and Agency find it necessary or convenient to sell the property (grant an option), to Lincoln 25 Limited Partnership (managing

1 partner - Innovative Housing, Inc.) an Oregon nonprofit public benefit
2 corporation, is the City and Agency's desire to provide affordable housing to
3 the City of Lincoln City's population.
4

5 F. The option to purchase is being considered ahead of a proposed disposition
6 and development agreement to provide site control for the redevelopment
7 project using the Federal low income housing tax credit (LIHTC) program by
8 the State. Based on this fact, the principal condition of the option to
9 purchase is the subsequent approval and execution of a disposition and
10 development agreement following a public hearing pursuant to ORS 271.225.
11 Accordingly, the terms of the disposition and development agreement are
12 not finally determined.
13

14 G. The nature of the option and future conveyance, with conditions, has been
15 advertised as an extension/ re-approval of the option/future conveyance to a
16 domestic non-profit corporation of a City-owned property acquired in 2009-
17 2010 for \$50,000. The most recent appraisals of the lots (2009) show a
18 combined value of \$433,000.00. Since the approval of the last option on the
19 City Properties above, the Agency has acquired the Hwy 101 frontage valued
20 at \$400,000. This additional URA property has now been conveyed to the
21 City. The former URA property was added to the option in February 2021
22 [Joint Resolution UR 2021-01] and is included in this re-approval/extension.
23 The total value of the properties included in the option extension is
24 \$833,000.00.
25

26 H. Consideration for the option to purchase includes construction of 107
27 apartment units restricted to 30% to 60% of area median income. Payment of
28 \$1.00 and Lincoln 25 Limited Partnership's (managing member -IHI)
29 commitment to redevelopment of the property using the Federal low income
30 housing tax credit (LIHTC) by the State and a commitment to proceed in
31 good faith with negotiation of a disposition and development agreement.
32 The terms and conditions of the future disposition and development
33 agreement, may include, but are not limited to, the following principal terms:
34 (1) Land Sale Price of \$1.00; (2) Multiple Unit Housing Property Tax
35 Abatement pursuant to ORS Chapter 307; (3) Deed restrictions or restrictive
36 covenants to enforce affordability standards; (4) System Development Charge
37 Deferrals per LCMC 13.08.095; (5) up to \$350,000 city "gap" grant; (6)
38 previously granted pre-development funding up to \$47,000; (7) previously
39 funded acquisition of improved site access; (8) City design, permitting and

1 construction of re-aligned NE 25th Street. All the above terms are subject to
2 all applicable quasi-judicial and legislative approval processes, including local
3 budget law. A standard real estate purchase and sale agreement may also be
4 required.
5

6 I. The June 27, 2022 City Council public hearing and Resolution staff reports are
7 incorporated herein by this reference. All evidence of market value was fully
8 disclosed and entered into the record at the public hearing.
9

10 J. Pursuant to ORS 221.725, any resident of the City was provided with an
11 opportunity to present oral or written testimony to the City Council on the subject
12 of the advertised Extension Re-approval of the Option to Purchase / future
13 conveyance at the public hearing. Again, there will be another opportunity to
14 comment at a future ORS 221.725 public hearing on the disposition and
15 development agreement.
16

17 K. After hearing the staff report, public input, and due deliberation, Council made the
18 findings set forth herein and directed the Extension / Re-approval of the Option to
19 Purchase / future conveyance of the real property with the conditions identified in
20 the staff report and this Resolution.
21

22 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF**
23 **LINCOLN CITY, AS FOLLOWS:**
24

25 **SECTION 1. RECITALS.** The above recitals are true and correct and are
26 incorporated herein by this reference.
27

28 **SECTION 2. FINDINGS.**
29

30 The Council finds and determines that the relevant statutory criteria for disposition
31 of City real property are found in or referenced in ORS Chapter 271 (specifically ORS
32 271.310 and ORS 271.330) as well as ORS 221.725 and the Lincoln City Urban
33 Renewal Plan.
34

35 ORS 271.330(2) provides (**emphasis added**):
36

37 (2)(a) Any political subdivision is granted express power to relinquish the title
38 to any of the political subdivision's property to a qualifying nonprofit

1 corporation or a municipal corporation for the purpose of providing any of the
2 following:

- 3 (A) Low income housing;
- 4 (B) Social services; or
- 5 (C) Child care services.

6 (b) As used in this subsection:

7 **(A) "Qualifying nonprofit corporation" means a corporation**
8 **that is a public benefit corporation as defined in ORS 65.001 (35)**
9 **and that has obtained a ruling from the federal Internal Revenue**
10 **Service providing that the corporation is exempt from federal**
11 **income taxes under section 501(c)(3) of the Internal Revenue Code.**

12 (B) "Social services" and "child care services" include but are not
13 limited to education, training, counseling, health and mental health
14 services and the provision of facilities and administrative services to
15 support social services and child care services.

16 **221.725 Sale of city real property; publication of notice; public hearing.**

17
18
19 (1) Except as provided in ORS 221.727, when a city council considers it
20 necessary or convenient to sell real property or any interest therein, the city
21 council shall publish a notice of the proposed sale in a newspaper of general
22 circulation in the city, and shall hold a public hearing concerning the sale prior
23 to the sale.

24 (2) The notice required by subsection (1) of this section shall be published
25 at least once during the week prior to the public hearing required under this
26 section. The notice shall state the time and place of the public hearing, a
27 description of the property or interest to be sold, the proposed uses for the
28 property and the reasons why the city council considers it necessary or
29 convenient to sell the property. Proof of publication of the notice may be
30 made as provided by ORS 193.070.

31 (3) Not earlier than five days after publication of the notice, the public
32 hearing concerning the sale shall be held at the time and place stated in the
33 notice. Nothing in this section prevents a city council from holding the hearing
34 at any regular or special meeting of the city council as part of its regular
35 agenda.

36 (4) The nature of the proposed sale and the general terms thereof,
37 including an appraisal or other evidence of the market value of the property,
38 shall be fully disclosed by the city council at the public hearing. Any resident of
39 the city shall be given an opportunity to present written or oral testimony at
40 the hearing.

1 (5) As used in this section and ORS 221.727, "sale" includes a lease-option
2 agreement under which the lessee has the right to buy the leased real property
3 in accordance with the terms specified in the agreement.
4

5 The Council finds and determines that it has received all information necessary to make
6 a decision based on the Staff Report, public hearing testimony and the exhibits and
7 evidence received.
8

9 The Council finds and determines that this proposal to grant an Extension / Re-
10 approval of the Option to Purchase the subject properties to Lincoln 25 Limited
11 Partnership [managing member Innovative Housing, Inc. (IHI), an Oregon nonprofit
12 public benefit corporation] meets all applicable statutory minimum criteria for
13 eligibility to convey real property, as more fully set forth herein. IHI is a qualifying
14 nonprofit corporation. Further the City Council finds and determines that the
15 proposed option to purchase for future disposition of real property (following another
16 public hearing) is deemed "necessary or convenient" to the City and Agency, and
17 "furthers the public interest" as the sale will further the City Council's and Agency's desire
18 to provide affordable housing for the City of Lincoln City's population. The Council and
19 Agency further find and determine that the property identified herein is not necessary for
20 City use. The findings herein are supported by competent substantial evidence in the
21 whole record, incorporated herein by this reference.
22

23 **SECTION 3. ORDER.** Based on the above Findings set forth herein and based upon
24 the evidence in the whole record, the City Council hereby approves and directs the
25 entering into an Extension/ Re-approval of the Option to Purchase Agreement for
26 future sale / conveyance of the subject properties, subject to all identified conditions,
27 included or referenced herein. The Option to Purchase is delegated to the City
28 Manager and City Attorney who are authorized to execute all documents as is
29 necessary to effectuate the Option approval / Extension and to bring back for future
30 consideration at an advertised public hearing the disposition and development
31 agreement contemplated herein for future consideration. The City Attorney must
32 approve all documents as to form. The Manager is expressly delegated the authority
33 to sign documents for the City. The Manager and Attorney are authorized to sign an
34 "award letter" consistent with this Resolution and further may expend such funds as
35 are necessary to effectuate the option and the future consideration of a disposition
36 and development agreement. The disposition and development agreement will be
37 subject to final approval, including all appeals, of applicable land use actions, and
38 other processes to address the terms and conditions therein. The future real property
39 sale will be, as is, and subject to all encumbrances of record.
40

1 **SECTION 4. EFFECTIVE DATE.** This resolution is effective as of the date of its
2 adoption and signature by the Mayor.

3
4 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of
5 June, 2022.

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10 SUSAN WAHLKE, MAYOR

11
12 ATTEST:

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15
16 JAMIE YOUNG, CITY RECORDER

17
18 APPROVED AS TO FORM:

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21
22 RICHARD APPICEZZO, CITY ATTORNEY