

ORDINANCE NO. 18.073

ORDINANCE 18,073

AUTHORIZING THE PURCHASE OF REAL ESTATE FROM DOWNTOWN DEVELOPMENT CORPORATION OF PEORIA FOR THE DEVELOPMENT OF PARKING FACILITIES ON SW WASHINGTON STREET, PEORIA, ILLINOIS.

WHEREAS, the City of Peoria (the "City") is a home rule unit of local government which may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, Downtown Development Corporation of Peoria ("Seller") is the owner in fee simple of real property legally described in Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the City intends to purchase the Property to construct and develop the parking facilities in support of redevelopment of properties within the Warehouse District TIF Redevelopment Project Area; and

WHEREAS, the City and Seller (the "Parties") have agreed to the City's offer to purchase the Property at a price of \$250,000 subject to the Parties' execution of a Real Estate Purchase Agreement (the "Agreement") in the same or substantially similar form as the Agreement attached hereto and incorporated herein as Exhibit B; and

WHEREAS, the City's corporate authorities find that the purchase of the Property is an eligible activity pursuant to the Warehouse District TIF redevelopment Project Plan and in the City's best interests for the protection of the public health, safety, and welfare;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PEORIA, ILLINOIS:

SECTION 1: The recitals to this Ordinance are true, material, adopted, and incorporated herein as Section 1 to this Ordinance.

SECTION 2: The City's corporate authorities approve of the purchase of the Property at a price of \$250,000.00, subject to the Parties' execution of the Agreement in the same or substantially similar form as Exhibit B. The City's corporate authorities further approve the Agreement in the same or substantially similar form as Exhibit B and direct the City Manager to execute and the City Clerk to attest the Agreement and all other documents and acts which are necessary to effectuate the Agreement and purchase of the Property.

SECTION 3: Effective upon the City attaining title to the Property, the City's corporate authorities direct the City Manager or his designee to record and file the title with the Peoria County Recorder.

SECTION 4: This Ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of Peoria that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 5: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

ADOPTED BY THE CITY COUNCIL of the City of Peoria, Illinois, at a Regular meeting thereof held on the 9th day of MAY, 2023 and approved by me as Mayor on the same day.

APPROVED:



Rita Ali, Mayor

ATTEST:



Stephanie Larr
City Clerk

EXAMINED AND APPROVED:



Corporation Counsel

EXHIBIT A
(Legal Description of the Property)

Parcel 1:

The Northeasterly 40 feet of Lot 12, AND the Southwesterly 10 feet of Lot 13, AND the Northeasterly 47 feet of Lot 11, AND the Southwesterly 20 feet of Lot 12, all in Block 73 in BALLANCE'S ADDITION to the City of Peoria; situated in Peoria County, Illinois.

PIN: 18-09-330-042

Commonly known as: 905 SW Washington Street, Peoria, IL 61602

Parcel 2:

Part of Lot 13 in Block 73 in BALLANCE'S ADDITION to the City of Peoria, more particularly described as follows: Commencing on the Southeasterly line of said Lot 13 on South Washington Street, at a point 10 feet Northeasterly from the Southerly corner of said Lot as the Place of Beginning; thence Northeasterly along said last mentioned line, 1.2 feet to the Southwesterly wall of the brick building now located on the Northeasterly 60 feet of said Lot 13; thence Northwesterly in a straight line coincident with the Southwesterly line of said building 166 feet, more or less, to the Northwesterly line of said Lot 13, at a point on said last mentioned line which is 11.3 feet Northeasterly from the Westerly corner of said Lot 13; thence Southwesterly along said last mentioned line 1.3 feet; thence Southeasterly 166 feet to the Place of Beginning; situated in Peoria County, Illinois.

PIN: 18-09-330-043

Commonly known as: 907 SW Washington Street, Peoria, IL 61602

**EXHIBIT B
(REAL ESTATE PURCHASE AGREEMENT)**

REAL ESTATE PURCHASE AGREEMENT

This Agreement (the "Agreement"), by and between the City of Peoria (the "City" or "Buyer"), an Illinois home rule municipal corporation, and Downtown Development Corporation of Peoria, an Illinois not-for-profit corporation (the "Seller"), collectively referred to as the Parties, and in consideration of the covenants set forth herein, agree as follows:

RECITALS

WHEREAS, the City is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, the City wishes to purchase real estate (commonly known as 905 and 907 SW Washington Street, Peoria, Illinois, owned in fee simple by the Seller for the purpose of establishing a parking structure to benefit and support residential real estate redevelopment within the Warehouse District TIF Redevelopment Project Area. The Property is legally described in Exhibit A (the "Property") and attached hereto.

WHEREAS, the City desires to purchase the Property from the Seller upon and subject to all of the terms, provisions, and conditions set forth in this Agreement; and

WHEREAS, the City's corporate authorities find that the purchase of the Property is an eligible activity pursuant to the Warehouse District TIF redevelopment Project Plan and in the public interest and promotes the public health, safety, and welfare; and

NOW, THEREFORE, in consideration of and in reliance upon the above Recitals, which are incorporated in and made a part of this Agreement, and for and in consideration of the mutual covenants and conditions set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Property to be sold.** The City agrees to purchase the Property from the Seller for the price of \$250,000.00 (Two Hundred Fifty Thousand Dollars and Zero Cents), subject to credits and prorations as provided herein.
- 2. Possession.** At closing, the Seller shall deliver possession of the Property to the City.
- 3. Deed.** The Seller agrees to convey the Property to the City by a good and sufficient recordable special warranty deed, subject only to covenants, conditions, restrictions and easements apparent or of record and to all applicable zoning laws and ordinances.

4. Evidence of title.

- (i) The City shall be responsible for ordering and paying, at its sole cost and expense, a Commitment for Title Insurance issued by a title insurance company doing business in Peoria County, committing a company to issue a title policy in the usual form in such amount as desired by the City.
- (ii) Permissible exceptions to title shall include only special assessments; zoning laws and building ordinances; easements, apparent or of record; and covenants and restrictions of record.
- (iii) If title evidence or any survey discloses exceptions other than those permitted, the Buyer shall give written notice of such exceptions to the Seller within 15 days. The Seller shall have 15 days upon receipt of said written notice to have such title exceptions removed. If the Seller is unable to cure such exceptions, then the Buyer shall have the option to terminate this Agreement.

5. Closing. The Closing Date shall be on or before June 1, 2023, or such later date determined as the Parties may agree in writing, subject to the applicable provisions of this Agreement. If the scheduled Closing Date does not fall on a business day, the Closing Date shall be the next business day thereafter.

6. Seller's Deliveries. On the Closing Date, provided all conditions and contingencies, if any, have been satisfied, Seller shall deposit or cause to be deposited with the Title Company (or deliver to the Buyer, or its designee) the following, each duly executed and notarized, as appropriate:

- (i) A Special Warranty Deed, meeting the requirements of this Agreement transferring the real estate to the Buyer;
- (ii) An ALTA statement and "gap" undertaking in the form customarily required by the Title Company of a seller of property to enable it to issue the Title Policy in accordance with the terms hereof for the Property;
- (iii) An Affidavit of Title signed by the Seller of the Property in the customary form.
- (iv) A Bill of Sale for all improvements and fixtures located on the Property, if any, in the customary form.

- (v) All documents necessary to release any mortgages, or liens in the property, if any.
- (vi) Such other documents or deliveries (if any) required pursuant to other provisions of this Agreement, the Closing Escrow, or otherwise reasonably required in order to consummate the transaction contemplated hereby and customarily required by the Title Company of a Seller of property to enable it to issue the Title Policy in accordance with the terms hereof.

7. **Buyer's Deliveries.** On the Closing Date, provided all conditions and contingencies have been satisfied, Buyer shall deposit with Title Company (or deliver to Seller) the following, each dated and duly executed and notarized, as appropriate:

- (i) All affidavits, indemnities, undertakings and certificates customarily required by the Title Company of a purchaser of property to enable it to issue the Title Policy in accordance with the terms hereof.
- (ii) The monetary payment due Seller and any additional amounts necessary to pay any costs and fees required to be paid by Buyer less any applicable credits.
- (iii) Such other documents or deliveries (if any) required pursuant to other provisions of this Agreement, the Closing Escrow, or otherwise reasonably required in order to consummate the transaction contemplated hereby.

8. **Joint Deliveries.** On the Closing Date, provided all conditions and contingencies, if any, have been satisfied, the parties shall jointly deposit with Title Company the following, each dated and duly executed and notarized, as appropriate:

- (i) Closing Statement.
- (ii) State, county and local transfer tax declarations and any required forms completed to establish that the transfers is exempt from any State, County or City real estate transfer taxes that is applicable because the transfer is made by a public entity.

9. **Closing Costs.** The closing costs shall be paid as follows:

By City:

- (a) Preparation of the Deeds and documents required of the Parties
- (b) Its legal expenses
- (c) 100% of the Title Company closing escrow fees
- (d) The cost of the Owner's title insurance policy with extended coverage
- (e) Recording fees for the Deed
- (f) The Survey if requested or required by the Title Company
- (g) Any other closing costs charged to the Parties that are not otherwise allocated pursuant to this Section.

By Seller:

- (a) Its legal expenses

- 10. Broker involvement.** The Parties acknowledge that neither party has used a broker.
- 11. Real estate taxes and proration.** Any and all prior real estate taxes due for the Property for any period prior to closing, if any, shall be paid by Seller prior to or at closing. For any real estate taxes not yet due, such taxes shall be prorated as of the date of Closing based upon the most recent ascertainable tax bill(s) for the Property, and a credit for Seller's prorated share shall be given to the Buyer upon the Purchase Price at Closing. Any allocation for Buyer's prorated share shall be paid by Buyer on or before that date upon which such taxes are due. Seller shall have no obligation to pursue any application or other proceeding to obtain for the Buyer an exempt status from such real estate taxes, with any obligation therefor to be the sole responsibility and at the sole expense of the Buyer. If necessary, the Seller shall bring to closing a certificate of redemption showing the amount of the real estate taxes owed for payments that were previously due and payable along with any penalties and interest and shall otherwise comply with all the Title Company's requirements pertaining to its payment of any previously due but unpaid real estate taxes.
- 12. Real Estate Transfer Taxes.** At closing, the Parties shall execute a completed Real Estate Transfer Declaration in the form required pursuant to the Real Estate Transfer Tax Act of the State of Illinois showing the exchange of properties in this Agreement as being exempt from any State, County, or local real estate transfer taxes.
- 13. Personal property.** All personal property and fixtures located on or within real estate, if any, shall be removed by the Seller before the closing.

14. **Uniform Vendor and Purchaser Risk Act.** The provisions of the Uniform Vendor and Purchaser Risk Act of Illinois shall be applicable to this Agreement.
15. **IRS Section 1445.** Each Party represents that it is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code and that it is exempt from the withholding requirements of said Section. Each Party will furnish to the other Party at closing the Exemption Certification set forth in said Section.
16. **Condition of property.** Buyer agrees to accept the Property in its "as-is" condition, and the Seller disclaims all warranties express or implied as to the condition of the Property. In this respect and consistent with the foregoing, Buyer acknowledges that it has had an adequate opportunity to inspect the Property, and that Buyer in entering into and consummating the transaction contemplated by this Agreement is relying exclusively on its own investigation of the Property, and Buyer accepts the risk that any inspection may not disclose all material matters affecting the Property. Buyer, therefore, agrees to accept the Property "AS IS" and "WHERE IS" and "WITH ALL FAULTS, without any right of set-off or reduction in the Purchase Price, and agrees to accept the Property without any representation or warranty whatsoever (expressed or implied or otherwise, including, without limitation, any warranty or representation that the Property is free from any defective condition or contamination).
17. **Default.** If any Party defaults under this Agreement, the other Party may waive the default and proceed to closing, seek specific performance, or refuse to close and cancel this Agreement with both parties being relieved of all further obligations under this Agreement. Except for failure to close on the Closing Date, a Party may not exercise its remedies until after it delivers notice of the alleged default to the other Party and the other Party fails to cure within ten (10) days after receipt of the default notice. The remedies provided herein shall be the sole and exclusive remedies for either Party's default under this Agreement.
18. **Time is of the essence.** Time is of the essence for this Agreement.
19. **Notices.** All notices herein required shall be in writing and shall be served on the parties at the addresses following their signatures. Except for when delivery of a notice is required, the mailing of a notice by registered or certified mail, return receipt requested, shall be sufficient service.
20. **Amendment.** This Agreement may be amended only by the mutual agreement of the Parties evidenced by a written amendment adopted and executed by the Parties.

21. **Entire Agreement.** This Agreement sets forth all agreements, understandings and covenants between and among the Parties relative to the matters herein contained. This Agreement supersedes all prior written agreements, negotiations and understandings, written and oral, and shall be deemed a full integration of the entire agreement of the Parties.

22. **Illinois Law.** This Agreement shall be construed its accordance with the laws of the State of Illinois.

23. **Interpretations.** This Agreement has been jointly negotiated by the Parties and shall not be construed against a Party because that Party may have primarily assumed responsibility for the drafting of this Agreement.

24. **Execution.** All the parties to this Agreement represent that they are authorized to enter into this Agreement.

25. **Counterparts / Electronic Signatures.** This Agreement may be signed in counterparts all of which shall be deemed originals. Electronic signing from a service such as Docu-Sign or scanned/emailed versions of copies of original signatures may be treated and used as so-called wet signature original signings.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations on the dates set forth below.

SIGNATURE PAGE FOLLOWS

<p>SELLER</p> <p>Downtown Development Corporation of Peoria 403 NE Jefferson Street Peoria, IL 61603</p> <p>By: <u><i>Michael J. Freilinger</i></u> <i>Michael J. Freilinger,</i> <i>President / CEO</i></p> <p>Date: <u><i>05/24/23</i></u></p>	<p>CITY</p> <p>City of Peoria 419 Fulton Street Peoria, IL 61602</p> <p>DocuSigned by: <u><i>Patrick Ulrich</i></u> 4B1F044997FE Patrick Ulrich, City Manager</p> <p>Date: _____</p>
<p>SELLER ATTEST</p> <p><u><i>Robert Anderson</i></u></p>	<p>CITY ATTEST</p> <p>DocuSigned by: <u><i>Sybil Jarr</i></u> 131A6CCA34E34C7...</p>