



MEMO FROM COUNCIL OFFICE:

To: Members of the Common Council

From: Stephen Lucas, Council Administrator/Attorney

Date: December 8, 2023

Re: Resolution 23-23 - A Resolution Authorizing the Sale of Real Property - Re: 220 E. Third Street

Synopsis

This resolution approves the sale of the real estate located at 220 E. Third Street in accordance with the procedures set forth Indiana Code 36-1-11.

Relevant Materials

- Resolution 23-23
 - Exhibit A – Offer from GMS-Pavillion Properties, LLC (Steve Hoffman)
- Staff Memo to the Board of Public Works
- Deed dated January 3, 1923
- Additional offers received by the City
 - Aptitude Development
 - UP Campus Student Living

Summary

Resolution 23-23 authorizes the City to sell property at 220 E. Third Street to GMS-Pavillion Properties, LLC (Steve Hoffman). This property is currently in use by the City as the Police Headquarters.

Last December 2022, the Common Council passed [Ordinance 22-30](#), which authorized the City to issue \$29.5 million in bonds to finance the costs of acquiring or renovating certain public safety facilities. In January of 2023, the proceeds of the bonds were then appropriated through passage of [Appropriation Ordinance 23-01](#), which also approved the purchase of a portion of the Showers Building complex for \$8.75M. This portion of the Showers complex was purchased for the purpose of relocating the City's Police and Fire Departments to be adjacent to the current City Hall.

The administration has expressed a desire to sell the current Police Headquarters so that the proceeds from the sale might help finance the public safety capital improvement projects contemplated in Exhibit A to [Ordinance 23-30](#). The administration has also noted that increased economic activation brought about by potential new development in the area would be a public benefit.



Indiana Code 36-1-11 requires the Common Council, as fiscal body of the City, to authorize the sale of land to the public when the value of the land exceeds \$50,000. The statute also requires that the City obtain two appraisals, post notice of the terms of sale, and either seek bids or conduct a public auction.

The City obtained two appraisals earlier this year, which determined that the value of the property to be sold was \$3,200,000 and \$4,400,000, respectively. The City has received three bids to purchase the property as follows (taken from the staff memo):

1. From Aptitude Development based in Elmwood Park, NJ
 - a. Purchase Price: \$4,850,000
 - b. Due Diligence Period: 120 days
 - c. Contingency: Closing will occur 30 days after “final, non-appealable approval for the development of student housing of at least 475 bedrooms.”
 - d. Holdover: During approval period prior to closing with an option to extend maximum of six (6) months upon written notice.

2. From UP Campus Student Living based in Chicago, IL
 - a. Purchase Price: \$3,200,000 (\$100,000 earnest money)
 - b. Due Diligence Period: 45 days
 - c. Contingency: Title commitment, satisfactory due diligence
 - d. Holdover: 1 year at 10% of closing price (including all closing costs) and with 2% annual increase if beyond one year.

3. From GMS-Pavillion Properties, LLC (Steve Hoffman) based in Bloomington, IN
 - a. Purchase Price: \$4,400,000 (\$40,000 earnest money)
 - b. Due Diligence Period: 60 days
 - c. Contingency: Title commitment, satisfactory due diligence
 - d. Holdover: 2 years at \$420,000 per year. Option to terminate with 6 months notice after first year (i.e. minimum lease back of 18 months). Lease may extend beyond two years for 60-day periods at \$35,000/month.

The Board of Public Works conducted a meeting on December 8, 2023 to review the above offers and to make a recommendation to the City. After asking questions and hearing information about these three offers, the Board passed a motion to make no recommendation on the sale of the property.

One of the questions raised at the meeting dealt with a restriction contained in the original 1923 deed to the City on the use of the property. Beth Cate, Corporation Counsel, expressed an opinion that the City was able to proceed with a sale of the property notwithstanding the language in the deed.



City of Bloomington Indiana

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The deed reads (in part):

It is agreed by and between the parties hereto that the principal consideration for the deed is that the above and foregoing described real estate shall be used exclusively for a Free Public Park, for the use of the Citizens of Bloomington, Indiana; and that the same shall be named and maintained under the name of The Waldron, Hill and Buskirk Park. And it is further provided that should the Grantee herein, or any other body that shall hereafter assume their duties, fail to maintain said Park as above described and for the use and purpose mentioned, the said real estate herein described shall revert to the Grantors herein, their Administrators, Executors, heirs and assigns.

Indiana law limits how long certain future property interests are valid, and the Council Office agrees that the City likely has the ability to proceed with a sale despite the restriction contained in the deed. This is not meant as an opinion about whether or not a sale is advisable.

Beyond the materials contained in this packet, the Council Office has also asked for additional information, much of which was requested by councilmembers during a Work Session held on December 4. Any additional materials or information the administration is able to share will be distributed to members and the public before the December 13 Council meeting.

Contact

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