FILED
CITY CLERK

2020 SEP -1 A 10: 5

CITY ATTORNEY

RESOLUTION 2020-19

A RESOLUTION RATIFYING AND APPROVING THE SALE AND DEVELOPMENT AGREEMENT FOR THE S. 8TH ST REDEVELOPMENT PROJECT

WHEREAS, the Redevelopment Commission is the owner of certain real estate more completely described in the attached Sale and Development Agreement ("Real Estate");

WHEREAS, on April 23, 2020, the Lafayette Redevelopment Commission issued a Request for Proposals Regarding the Sale of Real Property for Private Development and for the Development of Such Real Property ("Public Offering") with such proposals to be opened on May 28, 2020;

WHEREAS, the terms of the Public Offering required the property to be developed for a range of uses specifically market rate multi-family and single family rental, single family owner occupied detached and attached residential units and mixed-use commercial/housing with a rezoning to Planned Development (PD) utilizing LEED for Neighborhood Development and LEED for new construction standards in architectural style(s) reflecting compatible historic vernacular of the neighborhood, together with the construction of related site improvements, including sidewalks and landscaping.

WHEREAS, no proposals were received by the Lafayette Redevelopment Commission;

WHEREAS, pursuant to Indiana Code 36-7-14-22(h), upon the expiration of thirty days after the public opening of proposals, the Lafayette Redevelopment Commission may dispose of the real estate by private negotiation and for a price less than the public offering price.

WHEREAS, after declaring the existing properties on S 8th Street blighted and a detriment to the health, safety and welfare of the neighborhood and City of Lafayette, action was taken in 2003 to acquire and demolish the properties for redevelopment. After nearly two decades of unsuccessful attempts to find interested developers for an appropriate project that would spur revitalization of the area and a public offering, no parties have come forward that would consider purchase of the property at the average of two appraisals or even lesser amounts

WHEREAS, Triple R, LLC desires to purchase the Real Estate pursuant to the terms and conditions set forth in the Purchase and Sale Agreement;

WHEREAS, the Mayor and Economic Development Director have reviewed the proposed development, the qualifications of Triple R, LLC and believe the proposed development complies with the intent of the Public Offering and recommends the Lafayette Redevelopment Commission approve the sale of the real estate pursuant to the terms and conditions set forth in the Purchase and Sale Agreement attached hereto;

WHEREAS, the Lafayette Redevelopment Commission approved the sale of the Real Estate and the Sale and Development Agreement on August 27, 2020 through the adoption of Resolution LRC#2020-11 which resolution is attached hereto.

WHEREAS, pursuant to I.C. 36-7-14-22.55 the Common Council must ratify and approve any sale of real estate by the Redevelopment Commission.

NOW, THEREFORE, be it resolved by the Common Council of the City of Lafayette, Indiana, that the Sale and Development Agreement authorizing the sale of certain real estate by the Lafayette Redevelopment Commission to Triple R, LLC is hereby ratified and approved.

Adopted and passed by the Common Council of the City of Lafayette, Indiana, this 8th day of September, 2020.

CITY OF LAFAYETTE INDIANA
COMMON COUNCIL

_____
Nancy Nargi, President

_____
ATTEST: Cindy L. Murray, City Clerk

Presented by me to the Mayor of Lafayette, Indiana, for his approval and signature this 8th day of September, 2020.

_____
Cindy L. Murray, City Clerk

This Resolution approved and signed by me this 8th day of September, 2020.

_____
Tony M. Roswarski, Mayor

ATTEST:

_____
Cindy L. Murray, City Clerk

RESOLUTION LRC #2020-11

A RESOLUTION RATIFYING AND APPROVING THE SALE AND DEVELOPMENT AGREEMENT FOR THE S. 8TH ST REDEVELOPMENT PROJECT

WHEREAS, the Redevelopment Commission is the owner of certain real estate more completely described in the Purchase and Sale Agreement attached hereto ("Real Estate");

WHEREAS, on April 23, 2020, the Lafayette Redevelopment Commission issued a Request for Proposals Regarding the Sale of Real Property for Private Development and for the Development of Such Real Property ("Public Offering") with such proposals to be opened on May 28, 2020;

WHEREAS, the terms of the Public Offering required the property to be developed for a range of uses specifically market rate multi-family and single family rental, single family owner occupied detached and attached residential units and mixed-use commercial/housing with a rezoning to Planned Development (PD) utilizing LEED for Neighborhood Development and LEED for new construction standards in architectural style(s) reflecting compatible historic vernacular of the neighborhood, together with the construction of related site improvements, including sidewalks and landscaping.

WHEREAS, no proposals were received by the Lafayette Redevelopment Commission;

WHEREAS, pursuant to Indiana Code 36-7-14-22(h), upon the expiration of thirty days after the public opening of proposals, the Lafayette Redevelopment Commission may dispose of the real estate by private negotiation and for a price less than the public offering price.

WHEREAS, after declaring the existing properties on S 8th Street blighted and a detriment to the health, safety and welfare of the neighborhood and City of Lafayette, action was taken in 2003 to acquire and demolish the properties for redevelopment. After nearly two decades of unsuccessful attempts to find interested developers for an appropriate project that would spur revitalization of the area and a public offering, no parties have come forward that would consider purchase of the property at the average of two appraisals or even lesser amounts.

WHEREAS, Triple R, LLC desires to purchase the Real Estate pursuant to the terms and conditions set forth in the Purchase and Sale Agreement attached hereto.

WHEREAS, the Mayor and Economic Development Director have reviewed the proposed development, the qualifications of Triple R, LLC and believe the proposed development complies with the intent of the Public Offering and recommends the Lafayette Redevelopment Commission approve the sale of the real estate pursuant to the terms and conditions set forth in the Purchase and Sale Agreement attached hereto.

NOW, THEREFORE, the Commission finds as follows:

1. The proposed sale of real estate to Triple R, LLC upon the terms and conditions as set forth in the Sale and Development Agreement conforms with the goals and purpose of the Public Offering and in furtherance of the redevelopment of the Real Estate.

2. The Sale and Development Agreement for the sale of the Real Estate to Triple R, LLC for One Thousand Dollars ($1,000.00) plus all closing costs is hereby ratified and approved.

3. The Economic Development Director and/or the Commission's attorneys are hereby authorized to complete all actions necessary to close the above transaction in compliance with IC § 36-7-14-22. In the event any of the conditions of IC § 36-7-14 the Economic Development Director and/or the Commission's attorneys are authorized to terminate and cancel the Sale and Development Agreement.

4. This Resolution shall be in full force and effect immediately upon its adoption.

ADOPTED AND PASSED by the Lafayette Redevelopment Commission this 27th day of August, 2020.

LAFAYETTE REDEVELOPMENT COMMISSION

_____
Jos Holman, President

_____
Jim Terry, Vice President

_____
T.J. Thieme, Secretary

_____
Don Teder

_____
Shelly Henriott

ATTEST:

_____
Dave Moulton

_____
Josh Loggins

Attachment

SALE AND DEVELOPMENT AGREEMENT

by and between

LAFAYETTE REDEVELOPMENT COMMISSION

and

TRIPLE R, LLC

Regarding:

S. 8TH ST REDEVELOPMENT PROJECT

SALE AND DEVELOPMENT AGREEMENT

This Sale and Development Agreement (this "Agreement") is entered into as of this 27th day of August, 2020 (the "Effective Date") by and between the **Lafayette Redevelopment Commission** ("RDC") ("Seller") and **Triple R, LLC**, ("Purchaser")

WHEREAS, on April 23, 2020, the RDC issued its Request for Proposals for the Sale of Real Property for Private Development and for the Development of Such Property for the S. 8th St Redevelopment Project; and

WHEREAS, the RDC did not receive any bids or proposals in response to the Request for Proposals; and

WHEREAS, pursuant to IC 36-7-14-22(h), commencing 30 days after the date proposals are due, the RDC may sell the real estate for less than offering price if the RDC finds doing so is necessary to further its redevelopment plan; and

WHEREAS, after declaring the existing properties on S 8th Street blighted and a detriment to the health, safety and welfare of the neighborhood and City of Lafayette, action was taken in 2003 to acquire and demolish the properties for redevelopment. After nearly two decades of unsuccessful attempts to find interested developers for an appropriate project that would spur revitalization of the area and at least two public offerings, no parties have come forward that would consider purchase of the property at the average of two appraisals or even lesser amounts; and

WHEREAS, Purchaser has presented a proposed plan for redevelopment of the subject real estate which plan, and the financial strength of the Purchaser to complete said plan, has been vetted by the Mayor and Economic Development Director;

WHEREAS, the Mayor and Economic Development Director have made their recommendation to accept Purchaser's proposal and approve the terms of the sale and redevelopment of the real estate as set forth below;

WHEREAS, on August 27, 2020, the RDC approved this Sale and Development Agreement through the adoption of LRC Resolution 2020-11.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein the parties agree as follows:

ARTICLE 1. SALE OF PROPERTY

1.1. Seller agrees to sell to Purchaser and Purchaser agrees to purchase the real estate described in Exhibit A (the "Property") upon the terms and conditions set forth herein.

ARTICLE 2. PURCHASE PRICE

2.1. Purchase Price shall be One Thousand Dollars ($1,000.00) plus all closing costs.

2.2. Purchase Price shall be paid in cash at Closing.

ARTICLE 3. PROJECT DEVELOPMENT REQUIREMENTS

3.1 **Development Specifications**. The Property shall be developed for a range of uses specifically market rate multi-family and single family rental, single family owner occupied detached and attached residential units and mixed-use commercial/housing with a rezoning to Planned Development (PD) utilizing LEED for Neighborhood Development and LEED for new construction standards in architectural style(s) reflecting compatible historic vernacular of the neighborhood, together with the construction of related site improvements, including sidewalks and landscaping.

3.2. **Time Period**. Purchaser shall commence the PD rezoning process within one (1) year after transfer of the Property and full development of the PD shall be completed within five (5) years of the anniversary date of the transfer.

3.3. **Existing Apparent Right of Way**. The apparent existing right of way currently under pavement and known as Oregon St and any utilities within the apparent right-of-way must be maintained. The Purchaser shall dedicate the apparent existing right-of-way in any final plat recorded as part of the PD rezoning process or otherwise execute any and all documents requested by the RDC or City. The location of the apparent existing right-of-way is shown on the ALTA survey prepared by T-Bird Engineering and recorded in the Office of the Tippecanoe County Recorder on August 7, 2020 as Document Number 2020020015390 ("Survey").

3.4. **Utility Easements**.

3.4.1. As part of the PD rezoning process, or by execution of other documents requested by the City, the Purchaser shall dedicate a utility easement for the existing storm and sanitary sewer facilities located within the old rail corridor as shown the Survey.

3.4.2. As part of the PD rezoning process, or by execution of other documents requested by the City, the Purchaser shall dedicate a utility easement for the existing City facilities located within the vacated portion of 8th St as shown on the Survey.

3.5 **Other Utilities**.

3.5.1 Any other overhead or underground utilities and services, including, but not limited to, water, sewer, storm water, electric, gas or telecommunications must be maintained in current locations and easements granted as necessary.

3.5.2 If Purchaser desires to relocate any existing utilities, it will be at the sole cost and expense of Purchaser and Purchaser will be required to coordinate said work with the appropriate utility company and adjoining property owners, as necessary.

3.6. **Existing Sidewalk**. An existing sidewalk at northeast adjoiner 41 that encroaches upon the Property must remain intact.

ARTICLE 4. DEFAULT AND RE-CONVEYANCE

4.1 **Event of Default**. Purchaser shall be deemed in default of this Agreement if any of the following events occur ("Event of Default"):

4.1.1. A Major Default shall consist of:

4.1.1.1 The failure to commence the PD rezoning process within 60 days after transfer of the Property.

4.1.1.2. The failure to complete construction of the project within sixty (60) months of the approval of the PD rezone.

4.1.1.3. An attempt by Purchaser to re-sell the property, without the consent of the RDC, prior to commencement of construction.

4.1.1.4. Abandonment of the Project by Purchaser

4.1.2. Other Events and Defaults. The Purchaser fails to perform any other obligations under this Agreement.

4.2 **Notice and Cure**. Upon the occurrence of an Event of Default, the Seller shall notify the Purchaser in writing of such Event of Default, whereupon the Purchaser shall have thirty (30) days from its receipt of such notice to cure such Event of Default; however, that if the Event of Default is not reasonably capable of being cured within thirty (30) days, the Purchaser shall not be deemed to be in default of its obligations hereunder so long as it begins to cure such failure or violation within such thirty (30) day period, and cures such event of default within sixty (60) days thereafter or such longer period reasonably agreed to by the Seller.

4.3 **Termination by the Seller for Major Default**. If the Purchaser shall fail to cure any Major Default within the time for cure provided for herein, the Purchase agrees to re-convey the Property to the RDC without any reimbursement or compensation.

4.4. **Other Event and Defaults**. In the Purchaser shall fail to cure any Other Event or Defaults within the time for cure provided herein, the RDC may exercise any rights and remedies available under law or equity.

ARTICLE 5. MISCELLANEOUS

5.1 **Notices**. All notices, requests, demands, approvals, or other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to RDC:

Lafayette Redevelopment Commission

C/O Economic Development Director

515 Columbia St

Lafayette, IN 47901

If to Purchaser:

Triple R, LLC

_____

_____

5.2 **Assignment**. This Agreement shall not be assignable by either party, except upon written consent of the other party.

5.3 **Interpretation and Governing Law**. This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted and governed by the laws of the State of Indiana, without regard to the conflict of laws rules thereof. The Parties agree that jurisdiction pertaining to any dispute, claim or lawsuit pertaining to this Agreement shall be limited to the State Courts of Tippecanoe County, Indiana.

5.4 **Severability**. If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision has not been part of this Agreement.

5.5 **Modification of Agreement**. This Agreement or the application thereof may not be altered, modified, rescinded, or extended orally.

5.6 **Waivers**. The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

5.7 **Successors**. The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

5.8 **Certain Approvals**. Unless otherwise stated, all approvals or consents required of either party hereunder shall not be unreasonably withheld, conditioned or delayed.

5.9 **Execution**. The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities or agencies to execute this Agreement and to legally bind their respective entities or agencies as set forth in this Agreement.

5.10. **Common Council Approval**. This Agreement is contingent upon approval by the Lafayette Common Council as required by IC 36-7-14-22.5.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement by their duly authorized signatories on or as of the date first written below.

Lafayette Redevelopment Commission

_____

By: Dennis Carson, Economic Development Director

Triple R, LLC

_____

By: Jeff Rider, Member

EXHIBIT "A"

LEGAL DESCRIPTION

Per Survey Recorded August 7, 2020 at Document No 202020015390

A part of the East half of the Northeast Quarter of Section 29, Township 23 North, Range 4 West, City of Lafayette, Fairfield Township, Tippecanoe County, Indiana, being a part of the City of Lafayette real estate as described in Instrument Number 200202009700, recorded in the Office of the Tippecanoe County Recorder and as depicted on a Rule 12 Boundary Survey prepared by TBIRD Design Services Corp., Project Number 17075, recorded as Instrument Number 202020015390 in said Recorder's Office; including all that real estate as described in a Quiet Title Decree, Cause No. 79D01-0702-PL-10, recorded as Instrument Number 200707016164 in said Recorder's Office and as depicted on an ALTA / ACSM Land Title Survey prepared by Vester and Associates, Inc., Job No. 06278, recorded as Instrument Number 200707003835 in said Recorder's Office; and being more completely described as follows:
COMMENCING at the Northeast Corner of Outlot No. 1 in Jeremiah Bartholomew's Addition of Outlots as depicted on the plat thereof, recorded in Deed Book C, Page 101 and as depicted on said TBIRD survey; thence along the North Line of said Oulot, South 88°30'10" West, 257.64 feet; thence along a course parallel with the westerly right of way of Ninth Street, North 1°38'54" West, 127.74 feet to a ¾-inch diameter rebar with punched aluminum cap stamped "VESTER & ASSOC. LS FIRM 0004", hereinafter referred to as a Vester capped rebar marking the POINT OF BEGINNING; thence along the bounds of said Quiet Title Decree, as depicted on said Vester survey, and depicted as the Vester Quiet Title Line on said TBIRD survey for the following thirteen (13) courses:
1) South 88°20'14" West, 225.12 feet to a Vester capped rebar; 2) South 40°21'13" West, 10.30 feet to a Vester capped rebar; 3) South 40°22'27" West, 8.19 feet to the easterly right of way of Seventh Street; 4) along said easterly right of way, North 1°40'03" West, 222.46 feet;
5) North 89°34'07" East, 126.68 feet to a Vester capped rebar; 6) North 40°21'13" East, 126.34 feet to a 5/8-inch diameter rebar marking the westerly right of way of Eighth Street; 7) along said westerly right of way, South 2°07'09" East, 78.49 feet to a Vester capped rebar; 8) North 40°21'18" East, 74.05 feet to a Vester capped rebar marking the easterly right of way of Eighth Street; 9) along said easterly right of way, North 2°07'09" West, 46.66 feet to a 5/8-inch diameter rebar with yellow plastic cap stamped "TBIRD FIRM #0052", hereinafter referred to as a TBIRD capped rebar; 10) continue along said easterly right of way, North 3°01'09" West, 58.83 feet; 11) North 39°40'57" East, 139.52 feet to a Vester capped rebar; 12) North 38°37'04" East, 26.01 feet to a TBIRD capped rebar; 13) South 51°22'56" East, 1.19 feet to a TBIRD capped rebar; thence along the common report right of way of the former Wabash Railroad as depicted on said TBIRD survey for the following two (2) courses: 1) along a non-tangent curve concave southeasterly, said curve having a radius of 11423.46 feet and chord bearing North 38°48'54" East, 39.50 feet, an arc distance of 39.50 feet to a TBIRD capped rebar;
2) North 44°34'07" East, 46.62 feet to the recommended equitable title line as depicted on said TBIRD survey; thence along said recommended equitable title line for the following two (2) courses:
1) North 89°37'46" East, 12.46 feet; 2) North 37°45'25" East, 37.82 feet to the easterly right of way of Ninth Street; thence along said easterly right of way, South 1°38'54" East, 109.43 feet to a cross cut in concrete; thence along a course coincident with the former Wabash Railroad right of way as depicted on said Vester Survey, South 38°37'04" West, 74.83 feet to Vester capped rebar; thence along the bounds of said Quiet Title Decree for the following ten (10) courses: 1) South 39°40'57" West, 89.53 feet to a Vester capped rebar; 2) South 4°45'21" East, 45.66 feet to a Vester capped rebar;
3) South 89°36'09" West, 2.53 feet to a TBIRD capped rebar; 4) South 5°35'08" East, 36.62 feet to a Vester capped rebar; 5) North 89°34'52" East, 3.17 feet to a Vester capped rebar;
6) South 1°50'44" East, 218.11 feet to a chevron cut on top of a stone wall;

7) South 88°30'10" West, 110.81 feet; 8) along a course parallel with the westerly right of way of Ninth Street, South 1°38'54" East, 60.14 feet; 9) along a course parallel with the North Line of said Outlot, South 88°30'10" West, 15.73 feet to a TBIRD capped rebar; 10) along a course parallel with the westerly right of way of Ninth Street, South 1°38'54" East, 3.16 feet to the POINT OF BEGINNING, containing 2.54 acres, more or less.