



Legislation Text

File #: ID 17-0400, **Version:** 1

Resolution Approving the Lease of Lot 2A from TPAC, LLC, a Non-Profit Charitable Organization Owned by the Community Foundation of Greater Greensboro, to be Used at the Tanger Center for the Performing Arts Surface Parking Lot, and a Related Option to Purchase Agreement

Department: Finance
Council District: 3

Public Hearing: N/A
Advertising Date/By: N/A

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PURPOSE:

The City will convey Lot 2A of the Tanger Center site to TPAC, LLC, a non-profit charitable organization owned by the Community Foundation of Greater Greensboro pursuant to Resolution #0317-14 adopted on December 2, 2014. TPAC, LLC will use Lot 2A as collateral for a loan to assist with the construction of the Tanger Center for the Performing Arts. The City and TPAC LLC shall also execute an agreement leasing the property to the City and an option to purchase agreement providing the City an option to repurchase Lot 2A in the event that TPAC, LLC default on its financing and the lender determines to institute foreclosure proceedings.

BACKGROUND:

On March 4, 2014, the City Council adopted Resolution #0317-14 - a Resolution Authorizing the Mayor and City Manager to Enter into a Memorandum of Understanding ("MOU") between the Community Foundation of Greater Greensboro ("CFGG") and the City to design, finance, develop, construct, and manage the operations and programs of the proposed Steven B. Tanger Center for the Performing Arts (STPAC). As part of this MOU, the CFGG, through private donors, agreed to pay up to \$5 million of design costs for the facility and \$33.5 million for the construction costs and the City agreed to pay up to \$39.6 million for the purchase of land and the construction of the facility.

The MOU also stated the City and the CFGG, on behalf of its private donors, would have to obtain financing to cover each party's share of the costs of this project and that either party could use a portion of the STPAC as collateral for that financing. In order for the CFGG to obtain financing for its portion of the construction costs, the City combined all of the seven parcels of property that it purchased for the STPAC into one parcel and then subdivided the portion of the property to be used as the surface parking lot to be conveyed to the CFGG. On December 2, 2014, the City Council adopted a Resolution Approving the Recombination and Subdivision Plats for the Steven B. Tanger Performing Arts Center and Conveying to the Community Foundation of Greater Greensboro or Any Non-Profit, Charitable Organization Owned by It, the Subdivided Property to be Used as the Performing Arts Center's Surface Parking Lot. The recombination plat and subdivision plat describing the

property to be conveyed, was recorded in Plat Book 193 at Page 142. The property will be conveyed on the condition that the City will regain ownership of the subdivided surface parking lot once the financing repayment obligations of TPAC LLC are satisfied, which should occur no later than 90 months following closing.

N.C.G.S. 160A-279 allows the City Council to convey this property to any public or private entity which carries out a public purpose and to which the City is authorized to appropriate funds. The City must “attach to any such conveyance covenants or conditions which assure that the property will be put to a public use by the recipient entity.” TPAC, LLC is a private, non-profit, charitable organization owned and controlled by CFGG. The City is authorized to appropriate and has appropriated funds to CFGG for these purposes. In accordance with N.C.G.S. 160A-279, the City will attach conditions to the conveyance of this property to CFGG that will require the property to be utilized for a public purpose. The property will be leased back to the City for construction, use and operation of the surface parking lot. In addition, an option to purchase agreement between the City and TPAC LLC will be executed to protect the City’s interest in Lot 2A should TPAC, LLC default on any of its financing agreements for which Lot 2A is used as collateral. If the City would decide not to exercise the option agreement, then the lender could foreclose on the lot and use it for any public use within the meaning of N.C.G.S. 160A-279, including but not limited to a privately owned and operated parking lot which may be used by the public subject to hourly, daily, or monthly rates as set by the private owner or operator.

BUDGET IMPACT:

None.

RECOMMENDATION / ACTION REQUESTED:

It is requested that City Council approve and authorize the lease of Lot 2A from TPAC, LLC and the option to purchase agreement relating to Lot 2A.