

Legislation Text

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File #: 15-22865, Version: 1

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**Actions Related to City-Owned Property for the Evoke Living at Ballantyne Multi-Family Affordable Housing Development**

**Action:**

- A. Adopt a resolution approving an option to ground lease city-owned property located on Providence Road West and Ballancroft Parkway (parcel identification numbers 223-132-40 and a portion of 223-132-39) with Truist Bank subject to certain terms and conditions,**
- B. Adopt a resolution approving the release of a 0.617-acre portion of 15024 Ballancroft Parkway (parcel identification number 223-132-39) from the collateral for the Certificates of Participation issued in October 2021, and**
- C. Authorize the City Manager or his designee to negotiate and execute all documents necessary to complete the above actions.**

**Staff Resource(s):**

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Phil Reiger, General Services  
Teresa Smith, Finance  
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**Explanation**

- On June 12, 2023, City Council approved a long-term ground lease transaction to support the Evoke Living at Ballantyne multi-family affordable housing development, and granted CSE Communities, LLC (Crosland) an option to ground lease (Option) approximately 3.37 acres of city-owned property at Providence Road West and Ballancroft Parkway (parcel identification number 223-132-40 and a portion of 223-132-39) (Property) adjacent to the CMPD South Division police station in Council District 7 upon certain terms and conditions, including affordability restrictions.
- The ground lease transaction with Crosland, including the option to ground lease, is still in effect, and the affordable housing project approved by City Council remains unchanged.
- As Crosland has moved forward with finalizing its financing, two items have arisen that require further Council consideration:
  - Action A
    - Crosland’s primary lender, Truist Bank (Lender), in an abundance of caution and as part of their underwriting protocol, requires an Option to Ground Lease the Property (Lender Option) under the same terms and conditions as Crosland, to serve in the unlikely event that a default occurs, such as:
      - The ground lease with the City of Charlotte is rejected or terminated through a bankruptcy action or similar proceeding;
      - The Lender exercises its right to foreclose on the leasehold in the event of a default by Crosland; or
      - The ground lease is otherwise terminated prior to the maturity of the funding loan for the development of affordable housing on the Property without the consent of the Lender.
      - In such an unlikely event, the Lender Option would allow the Lender to work with the city to move the project forward in a timely manner, thereby

protecting their investment while satisfying the city's requirements for the development and operation of affordable housing on the Property.

– Action B

- A portion of the leased premises (Land), namely an approximately 0.617-acre portion of 15024 Ballancroft Parkway parcel (parcel identification number 223-132-39), is serving as collateral for a Certificate of Participation (COP) issued in October 2021 to help fund the construction of the CMPD South Division station and other capital investments. COPs are a common debt financing tool used by municipal governments to help fund capital investments.
- The Land includes access and parking for the adjacent Property on which the Evoke Living at Ballantyne development will be constructed.
- The Lender requires the Land to be free from encumbrances, and to resolve this the city proposes that the Land be released from the COPs collateral to allow Crosland to finalize their project financing.
- Based on due diligence conducted by staff to ensure that the release will not in any way impair the COPs agreements, staff recommends this release to allow the Evoke project to move forward.

## **Background**

### Action A

- On February 14, 2022, in response to a competitive Request for Proposals, City Council authorized the City Manager and staff to work with Crosland to finalize a preliminary affordable housing proposal and negotiate a long-term ground lease for an affordable multi-family rental housing development known as Evoke Living at Ballantyne. Due to the unique characteristics of the Property, it took Crosland, working with staff, longer than originally anticipated to finalize the building and site plans.
- On April 24, 2023 and February 26, 2024, City Council approved a Housing Trust Fund allocation totaling \$4,100,000 for the Evoke Living at Ballantyne affordable housing development, consisting of 60 for-rent apartment units affordable to households earning 80 percent and below the area median income.
- On January 8, 2024, due to continuing uncertainty in commercial financial markets and complexities associated with federal funding requirements, City Council approved an extension to the 2023 Option to Ground Lease with Crosland as well as an extension to the Ground Lease and affordability terms from 60 years to 75 years to satisfy certain lender terms.

### Action B

- On August 23, 2021, City Council held a public hearing and approved financing to complete the sale of COPs to fund capital investments, including construction of the CMPD South Division station.
- The city's obligation to repay the debt is secured by the respective real property affiliated with the COPs financing.

## **Attachment(s):**

Map  
Resolutions