



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members

FROM: Lorrie Pearson, AICP, Community Development Services Director
Lily Wilcock, Planner I

DATE: May 28, 2020

SUBJECT: **An Ordinance Approving an Amendment to a Planned Unit Development (1208 Bradley Avenue – Plan Case 2396-PUD-20)**
An Ordinance Approving an Agreement with Union Development Holdings, LLC, And Scion Urbana Land LLC (1208 Bradley Avenue)

On March 16 and April 6, 2020, the Committee of the Whole considered an amendment to the Melrose Apartments of Urbana Planned Unit Development (PUD) to remove the undeveloped portion of land from the approved PUD. This would allow an affordable housing developer to build a by-right multi-family development on the undeveloped land, which would be geared towards workforce housing. This is a supplemental memorandum to address questions related to the proposed amendment that were raised at the March 16 meeting and further discussed at the April 6 meeting. The development agreement must be generally agreed upon by all parties before considering the PUD amendment, and has been brought to the June 1 meeting as all substantive matters have been agreed upon.

Discussion

At the March 16, 2020, Committee of the Whole meeting, the Committee began discussing the case. The brief discussion mainly concerned the feasibility of constructing a public road connecting Goodwin Avenue to Kenyon Avenue. The discussion continued on April 6 and focused on the potential to enter into an agreement with the developer to purchase right-of-way (ROW) in the future if the City determines that to be the best course of action.

Site Connectivity

The undeveloped 14.51-acre “Phase II” of the approved PUD was designed to connect only to the east, to the gated and fenced "Phase I" property (now One North). The new site plan shows a by-right development on the Phase II land, with street connections to Bradley Avenue to the south and

to Federal Drive¹ to the northwest. There is also an eight-foot-wide private shared-use path running through the site from Bradley Avenue to Federal Drive.

The City's Engineering staff estimate that it would cost \$6 to \$7 million dollars to extend Goodwin Avenue from Bradley Avenue to Kenyon Road (not including land acquisition). While extending Goodwin Avenue is not in any current City plans, including the Capital Improvements Plan, the developer is willing to reserve land to be used for its possible extension in the future (see Exhibit A). If Goodwin Avenue is extended in the future, it may allow C-U MTD to more easily run bus services to pick up and drop off residents of One North without requiring them to cross Lincoln Avenue. Neither the City nor MTD have conducted any studies to determine the feasibility or desirability of extending Goodwin Avenue or of running bus services on it.

At the April 6, 2020, Committee of the Whole meeting, staff presented the options for obtaining ROW with the PUD amendment. A development agreement with the owner, developer, and the City would preserve the option to obtain ROW without taking immediate possession of ROW.

Affordability

Both the 2005 Comprehensive Plan and the Urbana Bicycle Master Plan envision more housing in areas of Urbana that have infrastructure in place and are more connected and accessible. At the March 16, 2020, Committee meeting, staff presented the proposed site plan, which is for a by-right affordable housing development on the vacant "Phase II" section of the Melrose Apartments PUD.

Affordable housing is most successful when located in areas close to major employment centers, but for various reasons, it is often built in peripheral areas. Much of the region's affordable housing is on the edge of cities or in more rural communities, making the housing less affordable and less convenient, since necessary goods and services are less accessible, especially for people who cannot afford their own car.

The subject site is very well connected to existing walking, biking, and transit infrastructure, which makes it an excellent location for affordable housing. The site is within a mile of the University of Illinois campus, and OSF Healthcare and Carle Hospital campuses. These three job centers employ many people who would qualify for affordable housing. In addition, the proposed development would have its rents capped at 30 percent of the monthly income of its residents, which, coupled with a convenient location, would help make the development truly affordable.

The Illinois Housing Development Authority (IHDA) has approved a preliminary plan for the proposed development. The developer will be applying for IHDA's 4% low-income housing tax credit program. Due to the COVID-19 pandemic, the deadline for applications has been extended and the application is no longer due at the beginning of April.

Development Agreement

A development agreement between the City and the developer would give the City an option to purchase ROW to extend Goodwin Avenue in the future. Staff has drafted a development agreement between the City, the owner (Scion Urbana Land LLC), and the developer (Union Development Holdings, LLC), which would grant the City the right to obtain a 60-foot wide ROW along the eastern

¹ The connection would be made once Federal Drive is extended in the future.

edge of the “Phase II” property for the next 10 years. The agreement provides the option to purchase ROW that will run with the land. Ownership of the development site can change, and notification will be sent to the City. The developer has stated there is no intent to sell within the 10-year timeframe.

The sale of the property is anticipated within the next year.

Granting the City the option to obtain the ROW for 10 years will give staff the necessary time to further study the costs of extending Goodwin Avenue and explore options to fund the extension. The developer and owner have provided feedback to staff on the draft development agreement. Some minor changes may need to occur before the agreement is signed; however, the parties all agree on the main points in the draft agreement (e.g., the City’s right to acquire the ROW).

Options

The City Council has the following options in Plan Case No. 2396-PUD-20:

1. Approve the Ordinance approving the Planned Unit Development amendment.
2. Approve the Ordinance approving the Planned Unit Development amendment with conditions.
3. Deny the Ordinance approving the Planned Unit Development amendment.

Additionally, a draft development agreement has been prepared and an ordinance to approve development agreement with the owner and developer at 1208 Bradley Avenue. The City Council has the following options:

1. Approve the Ordinance approving the development agreement.
2. Approve the Ordinance approving the development agreement with conditions.
3. Deny the Ordinance approving the development agreement.

Recommendation

At its March 5, 2020, meeting, the Plan Commission voted unanimously (six ayes and zero nays) to forward the Amendment to the Melrose Apartments of Urbana Planned Unit Development to City Council with a recommendation to **APPROVE** the amendment.

Based on the discussions at the March 16, and April 6, 2020, Committee of the Whole meetings and subsequent conversations with the developer, staff recommends the following condition on the Melrose Apartments of Urbana Planned Unit Development:

- That the owner and developer record a signed development agreement with the City prior to the closing of the subject property at 1208 Bradley Avenue.

Staff recommends Council approve both ordinances.

Attachments: Exhibit A: Revised Site Plan

Please see <https://www.urbanillinois.us/node/8460> for March 16, 2020,
Memorandum and Exhibits

CC: Lori Edwards, Union Development Holdings, LLC
Emily Vaias, Ballard Spahr, LLP

ORDINANCE NO. 2020-03-014

AN ORDINANCE APPROVING AN AMENDMENT TO A PLANNED UNIT DEVELOPMENT

(1208 W. Bradley Avenue / Plan Case 2396-PUD-20)

WHEREAS, the City of Urbana (“City”) is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, and the passage of this Ordinance constitutes an exercise of the City’s home rule powers and functions as granted in the Illinois Constitution, 1970; and

WHEREAS, on August 12, 1996, the City Council passed Ordinance No. 9697-26, granting a special use permit to Integroup, Inc. for construction of a planned unit development (“PUD”) in two phases, to be known as the Melrose Apartments of Urbana Planned Unit Development, on approximately 40 acres generally located at the northwest corner of West Bradley and North Lincoln Avenues; and

WHEREAS, Phase I of such PUD, consisting of approximately 25.20 acres, was completed but Phase II, consisting of approximately 14.51 acres, was not completed; and

WHEREAS, Scion Urbana Land LLC, the owner of the PUD, and Union Development Holdings, LLC, a contract buyer of the PUD, jointly have applied for an amendment to the PUD to exclude the undeveloped Phase II; and

WHEREAS, such application was presented to the Plan Commission as Plan Case No. 2396-PUD-20; and

WHEREAS, the Plan Commission held a public hearing on the proposed amendment at 7:00 p.m. on March 5, 2020, in accordance with Section XI-7 of the Urbana Zoning Ordinance and Section 11-13-14 of the Illinois Municipal Code (65 ILCS 5/11-13-14); and

WHEREAS, in accordance with Urbana Zoning Ordinance Section XI-10, due and proper notice of such public hearing was given by publication in *The News-Gazette*, a newspaper having a general circulation within the City, on a date at least 15 days but no more than 30 days before the time of the public hearing, and by posting a sign containing such notice on the real property identified herein; and

WHEREAS, the Plan Commission voted six ayes and zero nays to forward the case to the City Council with a recommendation to approve the request for an amendment to the Melrose Apartments of Urbana Planned Unit Development; and

WHEREAS, the amendment described herein conforms to the goals, objectives, and policies of the 2005 Comprehensive Plan, as amended from time to time; and

WHEREAS, after due and proper consideration, the City Council finds that the proposed amendment to the Melrose Apartments of Urbana Planned Unit Development is consistent with the requirements and general intent of Section XIII-3 of the Urbana Zoning Ordinance, is in best interests of the residents of the City, and is desirable for the welfare of the City's government and affairs.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

The boundaries of the Melrose Apartments of Urbana Planned Unit Development are hereby amended to exclude from such planned unit development with the following conditions: that the owner and developer records a signed development agreement with the City prior to the closing of the subject property at 1208 Bradley Avenue. The amendment described above shall only apply to a tract totaling approximately 14.51 acres and legally described as follows:

Lot 112 in the replat of Lot 11 and Lot 12 of a replat of Lot 1 and Lot 2 of Melrose of Urbana First Subdivision, as per plat recorded October 11, 2012, as document number 2012R25769, situated in Champaign County, Illinois.

Located at 1208 Bradley Avenue, and further referenced as Champaign County permanent index number 91-21-06-476-013.

Section 2.

An amended final development plan for the Melrose Apartments of Urbana Planned Unit Development, in substantially the form of the Survey Plat attached hereto as Attachment A, which is hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to record a certified copy of this Ordinance with the Champaign County Office of Recorder of Deeds and to file a certified copy with the Champaign County Clerk.

This Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this date day of Month, Year.

AYES:

NAYS:

ABSTENTIONS:

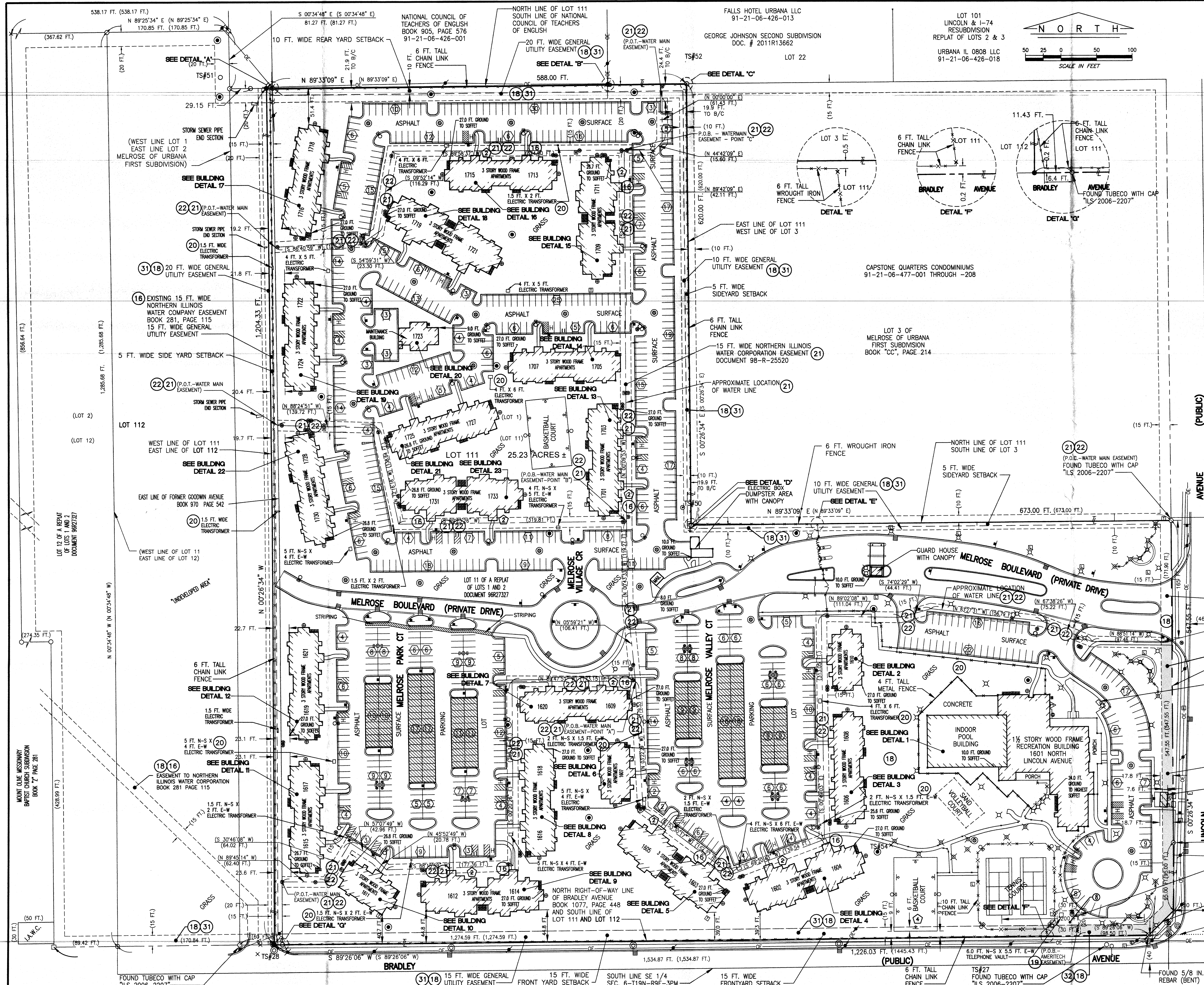
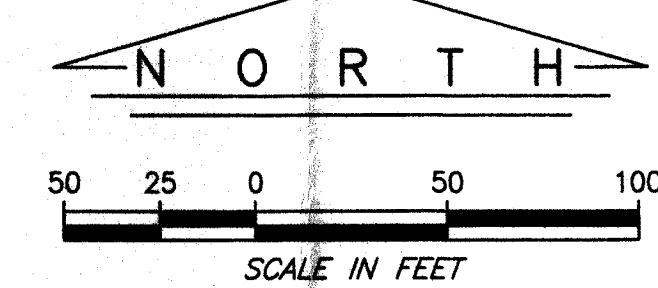
Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this date day of Month, Year.

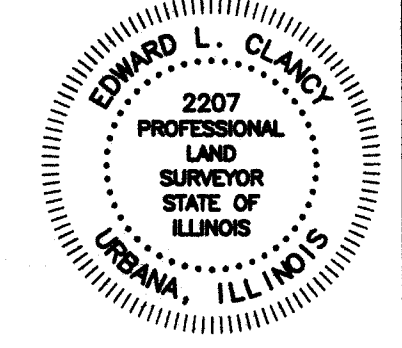
Diane Wolfe Marlin, Mayor

Attachment A

FAR = 0.33
 OSR = 1.57
 Parking Spaces = 998
 Number Buildings = 24



FOR BUILDING DETAILS AND DIMENSIONS
 SEE SHEETS 4, 5, AND 6.



SIGNED AND SEALED NOVEMBER 14, 2012
Edward L. Clancy
 EDWARD L. CLANCY, L.S., P.E., VICE PRESIDENT
 BERNS, CLANCY AND ASSOCIATES, P.C.
 ILLINOIS PROFESSIONAL LAND SURVEYOR 2207
 LICENSE EXPIRATION: NOVEMBER 30, 2014
 URBANA, CHAMPAIGN COUNTY, ILLINOIS
 ILLINOIS PROFESSIONAL DESIGN FIRM 2999
 LICENSE EXPIRATION: APRIL 30, 2013

15 FT. WIDE FRONT YARD SETBACK
 (21) (22) P.O.B. - WATER MAIN EASEMENT FOUND TUBECO WITH CAP "ILS 2006-2207"
 (32) (18) VEHICULAR ACCESS CONTROL
 WEST RIGHT-OF-WAY LINE OF LINCOLN AVENUE AND EAST LINE OF LOT 111
 5 FT. X 7 FT. ELECTRIC TRANSFORMER (20)
 CENTERLINE OF LINCOLN AVENUE AND EAST LINE SE 1/4 SEC. 6-T19N-R9E-3PM
BEVERLY DRIVE
 15 FT. WIDE GENERAL UTILITY EASEMENT (31) (18)
 BUS SHELTER (27)
 FOUND TUBECO WITH CAP "ILS 2006-2207"
 1.5 FT. N-S X 4.8 FT. E-W TELEPHONE PEDESTAL (S 45°08'08" W S 45°08'08" W 48.96 FT. (48.96 FT.) (S 89°26'06" W (84.97 FT.) (40.00 FT.) (N 09°26'34" W (40.00 FT.) (P.O.B. - AMERITECH EASEMENT) (19) I.D.O.T. BRASS TABLET FOUND SE COR. SE 1/4 SEC. 6-T19N-R9E-3PM

J. U. L. E.
 NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL: J.U.L.E. (800) 892-0123
 © 2012 ALL RIGHTS RESERVED. BERNS, CLANCY AND ASSOCIATES, P.C.

SURVEYED: DGW/KWO	REVISIONS
DRAFTED: PE	
CHECKED: DR/ELC/TBB	
FILE: 3218-52A.DWG	

BCA
BERNS, CLANCY AND ASSOCIATES
 ENGINEERS • SURVEYORS • PLANNERS
 405 EAST MAIN STREET - POST OFFICE BOX 0755
 URBANA, ILLINOIS 61803-0755
 PHONE: (217) 384-1144 - FAX: (217) 384-3355

PART OF THE SOUTHEAST 1/4 OF SECTION 6
 TOWNSHIP 19 NORTH, RANGE 9 EAST
 OF THE THIRD PRINCIPAL MERIDIAN
 URBANA, CHAMPAIGN COUNTY, ILLINOIS

ONE NORTH
 1601 NORTH LINCOLN AVENUE
 URBANA, ILLINOIS
 217-278-0278

LOT 111 OF A REPLAT OF LOTS 11 AND 12 OF
 A REPLAT OF LOTS 1 AND 2
 MELROSE OF URBANA FIRST SUBDIVISION
 URBANA, CHAMPAIGN COUNTY, ILLINOIS

"UPDATED"
 ALTA / ACSM LAND TITLE SURVEY

SURVEY PLAT

DATE: 111412
 SHEET:
 1 OF 5
 JOB: 3218-52A

ORDINANCE NO. 2020-06-030

AN ORDINANCE APPROVING AN AGREEMENT WITH UNION DEVELOPMENT HOLDINGS, LLC, AND SCION URBANA LAND, LLC

BE IT ORDAINED by the City Council of the City of Urbana, Illinois, as follows:

Section 1.

That an Agreement between the City of Urbana, Illinois, Union Development Holdings, LLC, and Scion Urbana Land, LLC, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2.

That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is hereby authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to record a certified copy of this Ordinance with the Champaign County Office of Recorder of Deeds and to file a certified copy with the Champaign County Clerk.

This Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this date day of Month, Year.

AYES:

NAYS:

ABSTENTIONS:

Charles A. Smyth, City Clerk

APPROVED BY THE MAYOR this date day of Month, Year.

Diane Wolfe Marlin, Mayor

Development Agreement

By and Between

The
CITY OF URBANA
Champaign County, Illinois

And

Union Development Holdings, LLC
An Indiana Limited Liability Company

And

Scion Urbana Land LLC
An Illinois Limited Liability Company

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereafter, “Agreement”) is made and entered into by and between the CITY OF URBANA, ILLINOIS (hereinafter, the “City”), SCION URBANA LAND LLC, an Illinois Limited Liability Company (hereinafter, the “Owner”), and UNION DEVELOPMENT HOLDINGS, LLC, an Indiana Limited Liability Company, and its assigns (hereinafter, the “Developer”).

WHEREAS, the City is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including but not necessarily limited to entering into development agreements for the development of land located within the corporate boundaries of the City; and

WHEREAS, the Owner is the owner of record of approximately fourteen and fifty-one hundredths (14.51) acres of real estate with common address being 1208 Bradley Avenue, Urbana, Illinois and being legally described as set forth on Exhibit A attached hereto and incorporated herein by reference (hereinafter, the “Subject Property”); and

WHEREAS, the Developer is in the business of, *inter alia*, developing and constructing residential apartment buildings that have been and will be occupied by individuals who qualify to become residents of affordable housing units; and

WHEREAS, the Developer and the Owner have entered into a certain Purchase and Sale Agreement dated September 27, 2019, as amended, (the “PSA”) which contemplates the Developer’s acquisition of the Subject Property from the Owner;

WHEREAS, on August 12, 1996, the City Council passed Ordinance No. 9697-26, granting a special use permit to Integroup, Inc. for construction of a planned unit development (“PUD”) in two phases, to be known as the Melrose Apartments of Urbana Planned Unit Development, on approximately 40 acres generally located at the northwest corner of West Bradley and North Lincoln Avenues; and

WHEREAS, Phase I of such PUD, consisting of approximately 25.20 acres, was completed but Phase II, the Subject Property, was not completed; and

WHEREAS, Phase II, which consists of the Subject Property, was not developed by Integroup, Inc.; and

WHEREAS, the Subject Property is located in an R-4 zoning – medium density multiple-family residential – zoning district; and

WHEREAS, the Subject Property remains within the area designated by City Council Ordinance No. 9697-26 and is undeveloped; and

WHEREAS, the Developer and Owner jointly presented an application to the City of Urbana Plan Commission as Plan Case No. 2396-PUD-20, to amend the aforesaid PUD by removing the Subject Property from the said PUD; and

WHEREAS, the Developer intends to develop, or cause to be developed, on the Subject Property an affordable housing community in general accordance with the site plan attached hereto as Exhibit B and incorporated herein (hereinafter, the "Site Plan"); and

WHEREAS, the Developer intends to develop the Subject Property in accordance with the Urbana Zoning Ordinance, Chapter 21 of Urbana Code, Subdivision and Land Development Regulations, and the City's Zoning Ordinance; and

WHEREAS, the City would like to obtain an option to purchase a 60-foot right-of-way for public access along the eastern boundary of the Subject Property and adjacent to the western boundary of the Phase I property which is owned by One Illinois Apartments LLC (hereinafter, "Phase I Owner"), as shown on the Site Plan; and

WHEREAS, the development of affordable housing units near major employers described herein conforms to the goals, objectives, and policies of the 2005 Comprehensive Plan, as amended from time to time.

NOW THEREFORE, in exchange of mutual, good and valuable consideration which each Party acknowledges as having in-hand received and for the mutual exchange of terms, conditions, and covenants contained in this Agreement, the Parties agree as follows:

ARTICLE I **DEFINITIONS**

Section 1.1. Definitions. For purposes of this Agreement, certain words and terms used herein will have the respective meanings following meanings:

"City" means the City of Urbana, Illinois, a unit of local government existing pursuant to Article VII, Section 6 of the Illinois Constitution of 1970

"City Council" means the City Council of the City of Urbana, Illinois.

"Developer" means Union Development Holdings, LLC, an Indiana Limited Liability Company.

"Future ROW" means approximately one and sixty-seven hundredths (1.67) acres of real estate located along the eastern property line of the Subject Property, sixty (60) feet wide, as shown on the Site Plan.

"Owner" means Scion Urbana Land LLC, an Illinois Limited Liability Company, and the current record owner of the Subject Property.

"Parties" means, collectively, the City, the Developer and the Owner.

"PUD" means the planned unit development created or authorized by the City of Urbana Ordinance No. 9697-26 passed by the City Council on August 12, 1996 and which, at that time, was known as the Melrose Apartments of Urbana Planned Unit Development.

"ROW" means right-of-way.

“Site Plan” means a site plan of the Subject Property, showing an affordable housing community, which is further depicted on Exhibit B.

“Subject Property” means approximately fourteen and fifty-one hundredths (14.51) acres of real estate located at the north of Bradley Avenue in Urbana, Illinois, commonly known as 1208 Bradley Avenue, as depicted on Exhibit B attached hereto and incorporated herein.

Section 1.2. Construction. The terms of this Agreement, except where the context by clear implication otherwise requires, will be construed as follows:

- (a) Defined words and phrases shall include both singular and plural forms of those words and phrases.
- (b) Pronouns include both the singular, plural, female, and male forms of those pronouns.
- (c) Section headings are solely for convenience of reference and do not constitute a part of this Agreement of this Agreement except for navigation purpose and will not affect the meaning, construction or effect hereof.
- (d) All exhibits attached to this Agreement will be and are operative provisions of this Agreement and will be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City hereby makes certain representations and warranties to the Developer and Owner, as follows:

Section 2.1.1. Organization and Standing. The City is a home rule municipality duly organized, validly existing and in good standing under the Illinois Constitution of 1970 and the laws of the State of Illinois.

Section 2.1.2. Power and Authority. The City has full power and authority to enter into, execute and deliver this Agreement and to perform all of the terms, conditions and covenants required to be performed by the City as set forth in this Agreement. To the extent any term, condition or covenant contained in this Agreement that is required to be performed by the City is contrary to any state or local statute, rule, regulation, or ordinance, the conflicting term, condition or covenant in this Agreement shall control based on the City's home rule powers and authority vested in the City by virtue of the Article VII, Section 6 of the Illinois Constitution of 1970.

Section 2.1.3. Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, conditions and covenants.

Section 2.1.4. No Violation. Neither the execution nor the delivery of this Agreement or the City's performance of any term, condition and/or covenant contained in this Agreement, will conflict with, violate or result in a breach of any terms, conditions or covenants of any other agreement, rule, regulations, statute, ordinance, judgment, decree or other law by which the City may be bound.

Section 2.1.5. Governmental Consents and Approvals. No consent or approval by any other governmental authority is required in connection with the entering into, execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of Developer and Owner. The Developer and Owner make the following respective representations and warranties to the City:

Section 2.2.1. Organization. The Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Indiana, and its affiliate and assignee, Union at Bradley, LP, which will acquire title to the Subject Property, is duly organized, validly existing, in good standing under the laws of the State of Indiana, and has applied for authorization to transact business in the State of Illinois (which authorization has been delayed due to the COVID-19 pandemic, but is expected prior to its taking title to the Subject Property).

Section 2.2.2. Power and Authority. The Developer and Owner each have the full power and authority to enter into, execute and deliver this Agreement and to perform all of the respective terms, conditions and covenants required to be performed by them.

Section 2.2.3. Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary limited liability company actions on the part of the Developer's and the Owner's respective members and/or managers, as their respective operating agreements may require. This Agreement is a legal, valid and binding agreement, obligation and undertaking of the Owner and Developer, enforceable against the Owner and Developer, respectively, in accordance with its terms, conditions and covenants contained in this Agreement except to the extent that such enforceability may be limited by law, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

Section 2.2.4. No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Developer and/or Owner is a party, or by which the Developer and/or Owner or any of its assets may be bound.

Section 2.2.5. Consents. No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by the Developer and Owner of this Agreement or the performance thereof by the Developer and Owner, respectively.

Section 2.2.6. No Proceedings or Judgments. There is no claim, action or proceeding now pending or, to the best of the Owner's and Developer's respective knowledge, threatened before any court, administrative or regulatory body or governmental agency (a) to which the Developer or Owner is a party and (b) which will, or could, prevent the Developer's and Owner's performance of their respective obligations under this Agreement.

Section 2.2.7. Pending Purchase and Sale Agreement. The Owner and Developer each represent and warrant that they have entered into the PSA, involving the Subject Property, including the Future ROW, and the same is in full force and effect. The Owner and Developer each represent

and warrant that, absent unforeseen circumstances or force majeure, it is their reasonable expectation and intention to close on the said PSA if the City of Urbana City Council adopts an ordinance that removes the Subject Property from the PUD created by City Ordinance No. 9697-26.

Section 2.3. Disclaimer of Warranties. The City, Owner, and the Developer acknowledge that none has made any warranties to the other, except as set forth in this Agreement or as set forth in the PSA.

ARTICLE III CITY'S OPTION RIGHT TO PURCHASE FUTURE ROW

Section 3.1. Option to Purchase from Owner. During all times while this Agreement is in full force and effect and when the Owner is in title to the Subject Property and following the City Council's adoption of an ordinance withdrawing the Subject Property from the PUD, the City shall have an option right to purchase the Future ROW from the Owner, free and clear of any and all structures, encumbrances, liens, licenses, and any other claims of right by any third person excepting driveways, sidewalks and utility easements, and also excepting any matters of record to which the City expressly consents in writing. The consideration for this option right in favor of the City shall include the purchase price provided for in this Agreement and the City's effort to have the City Council adopt an ordinance removing the Subject Property, including Future ROW, from the PUD.

Section 3.2. Option to Purchase from Developer. During all times while this Agreement is in full force and effect and when the Developer is in title, if at all, to the Subject Property and following the City Council's adoption of an ordinance withdrawing the Subject Property from the PUD, the City shall have an option right to purchase the Future ROW from the Developer, free and clear of any and all structures, encumbrances, liens, licenses, and any other claims of right by any third person excepting driveways, sidewalks and utility easements, and also excepting any matters of record to which the City expressly consents in writing. The consideration for this option right in favor of the City shall include the purchase price provided for in this Agreement and the City's effort to have the City Council adopt an ordinance removing the Subject Property, including Future ROW, from the PUD.

Section 3.3. City's Exercise of Option Right. In order to exercise the option right provided for in Sections 3.1 and 3.2 of this Agreement, the City shall give written notice to the Owner or the Developer, as the case may be, that the City intends to exercise its said option right to purchase the Future ROW. Owner, Phase I Owner and Developer will then have an opportunity to comment and participate in plans for the design, use and construction of the Future ROW, including consideration and protection of the Phase I property adjacent to the Future ROW.

Section 3.4. Purchase Price: If the City exercises the option right to purchase the Future ROW from the Developer or Owner, as the case may be, the City shall pay to the said seller at the time of closing on such sale and purchase Ten and No/Hundredths dollars (\$10.00). The purchase price shall be tendered to the said seller and paid to such order as the said seller shall direct in writing. Upon completion of such closing, title to the Future ROW shall be in the form of a warranty deed or trustee's deed and in fee simple without any structures, encumbrances, liens, easements, licenses, and any other claims of right by any third person excepting driveways, sidewalks and utility easements, and also excepting any matters of record to which the City expressly consents in writing.

ARTICLE IV
CITY COVENANTS AND AGREEMENTS

Section 4.1. Withdrawal of Subject Property from the PUD. Within 60 days of the signing of this Agreement by Owner and Developer, the City Council shall consider execution of this Agreement and a draft ordinance to amend the City's Ordinance No. 9697-26, to withdraw the Subject Property from the PUD. In the event that the City Council fails or refuses to adopt such an ordinance within 120 days of the signing of this Agreement by Owner and Developer, this Agreement shall automatically become null and void.

Section 4.2. Notification to Developer, Owner and Phase I Owner. If, after the City purchases the Future ROW, the City intends to construct anything on the Future ROW or any part thereof that would reasonably be expected to temporarily interfere with or otherwise limit the Developer's, Phase I Owner's or Owner's use of the Subject Property, the Phase I property, or any portion thereof, the City shall give written notice to the Developer or Owner, whichever is then in title to the Subject Property, and the Phase I Owner, of the City's intention to undertake construction on the Future ROW or any part thereof. The notice shall briefly describe the nature of the planned or anticipated construction, the anticipated date when construction will begin and end, and the likely impact that such construction will have on the Owner's or Developer's use of the Subject Property, Phase I Owner's use of the Phase I property, or any parts thereof.

Section 4.3. City's Use of the Future ROW. If the City chooses to purchase the Future ROW, the City agrees to use all of the Future ROW area for public right-of-way purposes, not to exceed a two-lane roadway with full curb and gutter and the possibility of bike and pedestrian facilities, with no on-street parking.

Section 4.4. Preservation of Utilities. The City agrees to take such steps and actions as are necessary in order to preserve and protect all utility lines that may be wholly or partially located in the Future ROW in the same manner that the City preserves and protects utility lines located elsewhere within the City of Urbana corporate limits.

Section 4.5. Recording this Agreement. The Parties agree that the City shall record this Agreement upon or after the date that the last Party hereto executes this Agreement.

ARTICLE V
DEVELOPER'S COVENANTS AND AGREEMENTS

Section 5.1. Closing on the PSA. The Developer intends to purchase the Subject Property and to develop it with affordable housing pursuant to the PSA.

Section 5.2. Developer's Sale of Future ROW. If the Developer is in title to the Subject Property, including the Future ROW at the time the City Council adopts an ordinance withdrawing the Subject Property from the PUD and if the City has not already purchased the Future ROW from the Owner, the Developer shall exercise prompt due diligence to close on a sale of the Future ROW to the City with a closing on such sale and purchase occurring within sixty (60) days from the date of the City's notice of intention to purchase the Future ROW. The City's option right to purchase the Future ROW from the Developer shall remain open for the duration of this Agreement.

Section 5.3. Future ROW. At all times during when the Developer is in title to the Subject Property, including the Future ROW, the Developer shall keep the Future ROW vacant and free of any permanent structure, encumbrance, lien, license, and other claim of right by any third person excepting excepting driveways, sidewalks and utility easements, and also excepting any matters of record to which the City expressly consents in writing.

Section 5.4. Future ROW Ownership and Maintenance. At all times when the Developer is in title to the Subject Property, including the Future ROW, the Developer shall maintain the Subject Property, including the Future ROW, in accordance and compliance with the City's property maintenance code and the City of Urbana Zoning Ordinance.

Section 5.5. Protecting and Maintaining the Future ROW. The Developer, during all times when the Developer is in title to the Future ROW, shall take all necessary and appropriate actions, at the Developer's cost and expense (including all attorneys' fees), to save, protect and defend any action by any third-person that claims any right, title or interest in or to the Future ROW or any part thereof or for any bodily injury, personal injury, or property damage that occurs in the Future ROW. Further, the Developer, during all times in which the Developer is in title to the Subject Property, including the Future ROW, shall provide insurance coverage that includes the Future ROW with any such insurance being at the same coverage levels that is or are provided for the remainder of the Subject Property.

ARTICLE VI

OWNER COVENANTS AND AGREEMENTS

Section 6.1. Closing on PSA. The Owner intends to sell the Subject Property to Developer pursuant to the PSA.

Section 6.2. Owner's Sale of Future ROW. If the Owner is in title to the Subject Property, including the Future ROW, at the time the City Council adopts an ordinance withdrawing the Subject Property from the PUD and if the City has not already purchased the Future ROW from the Owner, the Owner shall exercise prompt due diligence to close a sale of the Future ROW to the City with a closing on such sale and purchase occurring within sixty (60) days from the date of the City's notice of intention to exercise its option right to purchase the Future ROW. The City's option right to purchase the Future ROW from the Owner shall remain open for the duration of this Agreement.

Section 6.3. Future ROW. At all times during when the Owner is in title to the Subject Property, including the Future ROW, the Owner shall not sell or otherwise alter the nature or character of the Future ROW and shall keep the Future ROW vacant, free of any permanent structure, encumbrance, lien, license, and other claim of right by any third person excepting driveways, sidewalks and utility easements, and also excepting any matters of record to which the City expressly consents in writing.

Section 6.4. Future ROW Ownership and Maintenance. At all times when the Owner is in title to the Subject Property, including the Future ROW, the Owner shall maintain the Subject Property, including the Future ROW, in accordance and in compliance with the City's property maintenance code and the City of Urbana Zoning Ordinance.

Section 6.5. Protecting and Maintaining the Future ROW. The Owner, during all times when the Owner is in title to the Future ROW, shall take all necessary and appropriate actions, at the Owner's cost and expense (including all attorneys' fees), to save, protect and defend any action by any

third-person that claims any right, title or interest in or to the Future ROW or any part thereof or for any bodily injury, personal injury, or property damage that occurs in the Future ROW. Further, the Owner, during all times in which the Owner is in title to the Subject Property, including the Future ROW, shall provide insurance coverage that includes the Future ROW with any such insurance being at the same coverage levels that is or are provided for the remainder of the Subject Property.

ARTICLE VII

GENERAL PROVISIONS

Section 7.1. Binding Agreement. Until such time as the City closes on a purchase of the Future ROW, the City, Developer and Owner agree that none of them will take any action or omit to take action during the term of this Agreement, which act or omission would constitute a breach of this Agreement, without first procuring a written amendment to this Agreement duly executed by the Parties. The terms of this Agreement are hereby expressly made binding upon the Parties' grantees, lessees, assigns and successors in interest of the of the Owner and Developer, as the case may be, as to all or any part of the Subject Property and are further expressly made binding upon the City.

Section 7.2. Term. The term of this Agreement shall be for a period of ten (10) years from the date the last Party signs this Agreement.

Section 7.3. Default, Cure, Enforcement of Agreement. In the event a Party (the "Non-Defaulting Party") believes that another Party (the "Defaulting Party") has failed to perform any duty or obligation of this Agreement, whether by act or omission, the Non-Defaulting Party may give Notice of Default to the Defaulting Party. All Notices of Default shall be in writing and shall provide (i) a description of the nature of the default; (ii) the provision of this Agreement believed to be in default; (iii) a reasonable date by which such default must be cured; and (iv) the date of the Notice of Default. Within fourteen (14) days of the effective date of the Notice of Default (as described below), the Defaulting Party shall respond to the Notice of Default by stating (i) the default has been cured; (ii) the default cannot be reasonably cured within the time given in the Notice of Default, in which case the Defaulting Party shall provide the Non-Defaulting Party a reasonable date by which the default will be cured; or (iii) that no default has occurred, in which case, the Defaulting Party shall provide objective evidence in support of the Defaulting Party's assertion. If the Parties fail to resolve their differences regarding the existence of a default or whether the same has been cured, the Non-Defaulting Party shall have the right to initiate such legal action as the Non-Defaulting Party believes is necessary to either resolve the dispute or rescind this Agreement. In the event that this Agreement is rescinded by reason of the Owner's or Developer's default or otherwise terminated by any Party by reason of the Owner's or Developer's breach, the Parties agree that any City Council-adopted ordinance that removed the Subject Property from the PUD shall automatically become null and void and/or that the City Council shall have the absolute right to rescind or repeal such ordinance, the effect of which would be restoring the Subject Property to PUD. In the event this Agreement is terminated by reason of any default or breach hereof by the Owner or Developer, this Section shall be deemed and construed as remaining in full force and effect.

Section 7.4. Notices. All notices, demands, requests, consents, approvals or other communications or instruments required or otherwise given under this Agreement must be in writing and delivered by one of the means provided below in order to be effective. Such written notices, if given as hereinafter provided, shall be deemed effective on the date or time specified below.

If given by U.S. First Class Mail: Such notice shall be sent by certified or registered mail, return receipt requested and the same shall be deemed effective four (4) days after placement with the United States Postal Service if such notice's envelope is properly addressed to the intended recipient and bears

proper postage paid by the sender.

If given by personal delivery or courier service: Such notice shall be deemed effective the day immediately following the day when personal delivery or courier is made if properly addressed to the intended recipient and if all costs and expenses of such delivery are fully paid by the sender.

If given by facsimile machine: Such notice shall be deemed effective the day immediately following the day when the recipient's facsimile machine receives the sender's facsimile if the sender's facsimile provides a printed receipt that the transmission of the facsimile was received and the date and time it was received.

Any notice sent shall be directed to all the other Parties. Any other means of notice shall not be effective. All such notices shall be directed to the following persons at their respective following addresses.

TO CITY:

City of Urbana
Attention: City Administrator
400 South Vine Street
Urbana, IL 61801

TO DEVELOPER:

Union Development Holdings, LLC
Attention: General Counsel 409
Massachusetts Avenue, Suite 300
Indianapolis, IN 46204

**TO OWNER & PHASE I
OWNER:**

Scion Urbana Land LLC
10100 Santa Monica Boulevard
Suite 2600
Los Angeles, CA 90067
Attention: Philip Han

With copy to Owner's Attorney:
Niveen Tadros, General Counsel & EVP
Scion Urbana Land LLC/Saban Capital Group
10100 Santa Monica Boulevard
Suite 2600
Los Angeles, CA 90067

Section 7.5. Covenant Running with the Land. This Agreement shall constitute a covenant running with the land for the term of this Agreement. The City, Owner and the Developer intend that this Agreement shall be recorded in the Champaign County Recorder's Office, Illinois, with any expenses for said recording to be paid by the City.

Section 7.6. Severability. If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect without the invalid provision.

Section 7.7. Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required; and it shall not be necessary that the signature of, or on behalf

of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single document.

Section 7.8 Photocopy Signatures. The Parties acknowledge that photocopies of this Agreement which have been executed by the Parties hereto or their respective agents shall be binding upon the Parties as if such photocopies were originals regardless of whether such photocopies of this Agreement have been delivered by any one of the means provided for in Section 7.4 of this Agreement. Upon request from any Party hereto, all other Parties agree to execute an original of this Agreement upon presentation thereof if said document has previously been executed and delivered in photocopy form by any one of the means provided in Section 7.4 of this Agreement.

Section 7.9. Entire Contract and Amendments. This Agreement (together with the Exhibits attached hereto) is the entire contract between the Parties relating to the subject matter hereof, supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the Parties and may not be modified or amended except by a written instrument executed by the Parties.

Section 7.10. Waiver. Any Party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement. Any failure to enforce a default on or breach of any term, condition or covenant contained in this Agreement shall be deemed or construed as a waiver of such default or breach.

Section 7.11 Notice of Assignment. If the Developer or Owner assigns their respective rights or obligations under this Agreement, they will promptly provide the City with notice of any such assignment.

IN WITNESS WHEREOF, the City, the Owner and the Developer have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

CITY:
City of Urbana

By:

Attest:

Date:

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I, the undersigned Notary Public, in and for the County of Champaign, State of Illinois, do hereby certify that _____ (Mayor) and _____ (Clerk), personally known to me to be the Mayor and Clerk of the City of Urbana, whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary acts for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 2020.

(signature)

Notary Public

SIGNATURES ON FOLLOWING PAGES

DEVELOPER:
Union Development Holdings, LLC
An Indiana Limited Liability Company

By:

Attest:

Date:

I, the undersigned Notary Public, in and for the County of _____, State of _____, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary acts for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 2020.

(signature)

Notary Public

SIGNATURE ON FOLLOWING PAGE

OWNER:
Scion Urbana Land LLC
An Illinois Limited Liability Company

By:

Attest:

Date:

I, the undersigned Notary Public, in and for the County of _____, State of _____, do hereby certify that _____, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary acts for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _____, 2020.

(signature)

Notary Public

EXHIBIT A

Legal Description of Subject Property:

Lot 112 in the replat of Lot 11 and Lot 12 of a replat of Lot 1 and Lot 2 of Melrose of Urbana First Subdivision, as per plat recorded October 11, 2012, as document number 2012R25769, situated in Champaign County, Illinois.

P.I.N.: 91-21-06-476-013

Common Address: 1208 Bradley Avenue, Urbana, IL, 61801

Description of Future Right-Of-Way (ROW):

A part of Lot 112 in the replat of Lot 11 and Lot 12 of a replat of Lot 1 and Lot 2 of Melrose of Urbana First Subdivision, as per plat recorded October 11, 2012, as document number 2012R25769, situated in the City of Urbana, in Champaign County, Illinois, more particularly described as follows:

Beginning at the southeast corner of said Lot 112 in the replat of Lot 11 and Lot 12 of a replat of Lot 1 and Lot 2 of Melrose of Urbana First Subdivision; thence s 89°25'45" w along the southerly line of said lot 112 for a distance of 60.00 feet; thence n 0°26'32" w for a distance of 1285.63 feet to the northerly line of said lot 112; thence N 89°24'48" E along said Northerly Line of Lot 112 for a distance of 8.09 feet to the Northeast Corner of said Lot 112; thence S 0°36'33" E along the Easterly Line of said Lot 112 for a distance of 81.18 feet; thence N 89°38'39" E continuing along said Easterly Line of Lot 112 for a distance of 51.67 feet; thence S 0°26'32" E continuing along said Easterly Line of Lot 112 for a distance of 1204.26 feet to the point of beginning, containing 1.67 acres, more or less.

