

ORDINANCE NO. 090800

Authorizing the City Attorney to execute a release of the Receiver appointed in the *City of Kansas City, Missouri v. HEDFC* lawsuit from any liability to the City arising from transfer of Registry Square parcels to Habitat for Humanity and to execute an agreement providing for the introduction of an appropriation ordinance in the event a third party claim is asserted against the Receiver arising from the same transfer.

WHEREAS, the City filed a lawsuit against the Housing and Economic Development Financial Corporation (“HEDFC”) in the U.S. District Court for the Western District of Missouri styled *City of Kansas City, Missouri v. HEDFC*, Case No. 4:05-CV-00368-GAF seeking various relief, including the appointment of a receiver to handle the operations of HEDFC until the Court determined what assets of HEDFC should be transferred to the City; and

WHEREAS, the U.S. District Court appointed David E. Bahner (Receiver) to serve as that receiver; and

WHEREAS, among the parcels of real property owned by HEDFC and subject to the authority and control of the Receiver are nine unimproved, scattered site parcels originally conveyed to HEDFC from the U.S. Department of Housing and Urban Development (“HUD”) in December 1998 which were part of a failed HUD-subsidized apartment development then known as Registry Square Apartments; and

WHEREAS, in the contract of sale between HEDFC and HUD for these parcels, HEDFC agreed that these parcels would be developed for single family residential uses; and

WHEREAS, these parcels are located in that part of Kansas City, Jackson County, Missouri that can be generally described as between 44th Street on the north, Paseo Boulevard on the east, Troost Avenue on the west and Brush Creek Boulevard on the south and have the following street address: 1115 East 44th Street, 1121 East 44th Street, 4402 Forest Avenue, 1202 East 45th Street, 1210 East 45th Street, 1215 East 45th Street, 4501 Tracy, 1310 Brush Creek Boulevard and 1219 Brush Creek Boulevard; and

WHEREAS, after no responses were received by the City in response to a Request for Proposals/Qualifications seeking proposals for the development of affordable single family units on these parcels, Habitat for Humanity/Kansas City, Inc. (“Habitat for Humanity”) approached the City and requested that these lots be donated to it in exchange for its agreement to build affordable single family units on them; and

WHEREAS, in an Amended Order issued September 4, 2009, the U.S. District Court authorized the Receiver to donate these parcels to Habitat for Humanity as long as the following three preconditions were met: (1) approval by the Receiver of all

ORDINANCE NO. 090800

documents relating to the transfer of these parcels, (2) the City, by ordinance, released the Receiver through a release executed by the City Attorney from any “Losses” arising from the Receiver’s compliance with the Amended Order or the transfer of these parcels, and (3) the City Attorney’s execution of an agreement with the Receiver in which it is agreed that, upon notice by the Receiver of a third party claim arising out of his compliance with the Amended Order or the transfer of these parcels, the City Attorney will docket an ordinance requesting that the Council appropriate sufficient funding for the defense and indemnity of the Receiver from such third party claim; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF KANSAS CITY:

Section 1. That the City hereby releases David E. Bahner, the Receiver of HEDFC, appointed by the U.S. District Court for the Western District of Missouri in *City of Kansas City, Missouri v. Housing & Economic Development Financial Corporation*, Case No. 05-00368-CV-W-GAF, from any and all past, present or future losses, claims, damages, judgments, assessments, costs or other known or unknown liabilities incurred by, or believed to have been incurred by, the City arising from his compliance with the Amended Order issued on September 4, 2009, regarding the donation of following nine parcels of real property to Habitat for Humanity or that might arise from the transfer of these nine parcels pursuant to this Amended Order; those nine parcels being those with the common street addresses of 1115 East 44th Street, 1121 East 44th Street, 4402 Forest Avenue, 1202 East 45th Street, 1210 East 45th Street, 1215 East 45th Street, 4501 Tracy, 1310 Brush Creek Boulevard and 1219 Brush Creek Boulevard.

Section 2. That the City Attorney is authorized to execute a Release on behalf of the City that releases David E. Bahner, the Receiver of HEDFC, appointed by the U.S. District Court for the Western District of Missouri in *City of Kansas City, Missouri v. Housing & Economic Development Financial Corporation*, Case No. 05-00368-CV-W-GAF, from any and all past, present or future losses, claims, damages, judgments, assessments, costs or other known or unknown liabilities incurred by, or believed to have been incurred by, the City arising from his compliance with the Amended Order issued on September 4, 2009, regarding the donation of following nine parcels of real property to Habitat for Humanity or that might arise from the transfer of these nine parcels pursuant to this Amended Order; those nine parcels being those with the common street addresses of 1115 East 44th Street, 1121 East 44th Street, 4402 Forest Avenue, 1202 East 45th Street, 1210 East 45th Street, 1215 East 45th Street, 4501 Tracy, 1310 Brush Creek Boulevard and 1219 Brush Creek Boulevard.

Section 3. That the City Attorney is authorized to execute an agreement with David E. Bahner, the Receiver, in which the City Attorney agrees that whenever the Receiver notifies him that a claim or cause of action is asserted against the Receiver by a third person arising out of the Receiver’s compliance with the above Amended Order issued by the Court or from the transfer of any one or more of the nine parcels described above, the City Attorney will docket an ordinance for first reading at the next available City Council legislative session, requesting sufficient funding for the defense and

ORDINANCE NO. 090800

indemnity of the Receiver from such claim, demand, cause of action or other liability asserted by that third person.

Approved as to form and legality:

Galen P. Beaufort
City Attorney