

**CITY OF WAUKESHA****Administration**

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<b>Committee:</b> None	<b>Committee Meeting Date:</b> Not applicable
<b>Agenda Item Number:</b> 18-0385	<b>Common Council Meeting Date:</b> 3/20/2018
<b>Submitted By:</b> Brian Running, City Attorney	<b>City Administrator Approval:</b> Kevin Lahner, City Administrator KL
<b>Finance Department Review:</b> Rich Abbott, Finance Director RA	<b>City Attorney's Office Review:</b> Brian Running, City Attorney BER
<b>Subject:</b> Waiver of City's right to repurchase property in the Waukesha Corporate Center.	

**Details:**

The restrictive covenants for the Waukesha Corporate Center provide that if an owner does not commence construction of improvements within one year of purchasing a lot in the center, the City has the right to repurchase the lot from the owner. The intent, when the covenants were created in 2001, was to have the lots developed quickly, obviously, but economic conditions intervened and a number of the lots sat undeveloped for more than a year. There was no point in the City repurchasing the lots, in light of the economic circumstances.

RED Development, LLC owns one of the lots, and is now in the process of selling it to a developer who has definite plans for developing the lot. However, because the City presently does have the right to repurchase the lot by virtue of the restrictive covenants, the buyer needs to know that the City is not going to do that. The buyer will not proceed with the purchase if the City does not waive its repurchase option.

RED's lawyer has prepared a waiver form, which accompanies this cover sheet. I have no objection to the form of the waiver, and recommend that it be used. If executed on behalf of the City, it will give up the City's right ever to repurchase the lot.

**Options & Alternatives:**

There is no reasonable alternative which would allow the owner to sell the lot and for the lot to be developed. The City could exercise its right to repurchase, but we would have to pay for the lot and then turn around and sell it again, which would be a pointless exercise and would not be of any benefit to the City. If we simply refuse to waive our option, then the land will not be sold, and will not be developed.

**Financial Remarks:**

There is no financial impact to the City.

**Staff Recommendation:**

Approval of waiver of the City's right to repurchase the RED Development LLC lot, and authorization for the City Attorney to execute and deliver to RED a waiver substantially in the form of the document accompanying this cover sheet.