

TOWN COUNCIL ACTION REPORT

April 27, 2017

Resolution Amending a Redevelopment Agreement with Mr. Nicolas Africano Pertaining to the Demolition of the Former ISSCS Administration Building and the Renovation of the Former ISSCS Infirmary Building within the One Normal Plaza Planned Unit Development

PREPARED BY: Mark R. Peterson, City Manager

REVIEWED BY: Brian Day, Corporation Counsel

BUDGET IMPACT: The proposed amendment does not change any of the budget impact associated with the original agreement. The agreement calls for the Town to reimburse Mr. Africano for the costs associated with the demolition of the Administration Building up to a maximum of \$500,000. Those funds have been included in the FY 2017-18 budget in line item 001-1030-413.40-30.

STAFF RECOMMENDATION: Approval

ATTACHMENTS: Proposed Resolution, letter from Mr. Africano requesting amendment of the agreement, letter from Busey Bank, letter from Stark Excavating, and the original redevelopment agreement and staff report

BACKGROUND

On September 19, 2016, the Council approved a redevelopment agreement with Mr. Nicolas Africano who owns several properties within the One Normal Plaza PUD (formerly the Illinois Soldiers and Sailors Children's School property). A copy of the original agreement is attached along with the staff report. The agreement required that Mr. Africano proceed with the demolition of the Administration Building no later than six months after the date of execution of the original agreement. That agreement was executed on November 2, 2016 and, therefore, the six month deadline will occur on May 2, 2017.

Unfortunately, the demolition project has not yet begun. In his letter dated April 25, 2017 (attached), Mr. Africano indicated that the delay was primarily caused by his inability to provide the necessary financial assurances to the project contractor, Stark Excavating, to allow them to proceed with the project. Mr. Africano further states that he now has been able to give Stark Excavating the necessary financial assurances and they have committed to starting the project with asbestos abatement on May 5, 2017 and they estimate that the entire demolition project will be completed by October 1, 2017. Consequently, Mr. Africano is therefore requesting that the deadline for completion of the Administration Building demolition project be extended to October 1, 2017. Town staff would suggest, in order to provide a little bit of flexibility, that the actual deadline be set at October 15, 2017.

TOWN COUNCIL ACTION REPORT

DISCUSSION/ANALYSIS

The delay of this project is certainly frustrating. In his letter to the Mayor and Council requesting the extension, Mr. Africano takes full responsibility for his failure to comply with the project schedule. At this point, the Town Council has essentially two options. First of all, the Town can approve the requested extension proposed by Mr. Africano. Based upon the documentation he has provided, it appears that he has resolved his financing issues and that Stark Excavating is ready to proceed with the demolition project within the next few days. Denial of the project extension would require the Town to serve notice on Mr. Africano that he is in default of the original redevelopment agreement. According to Legal Counsel, the Town would need to give him a certain amount of time, likely 60-90 days, to correct the breach. Assuming that Mr. Africano would be unable to correct the breach, the Town could then pursue legal remedies in an attempt to abate the nuisance, which is the Administration Building itself.

According to the Legal Department, the latter approach could likely take several months, if not years, in order to achieve the removal of the Administration Building. It is for this reason, that Town staff is recommending that the Council approve the request made by Mr. Africano to extend the project deadline an additional five months to October 15, 2017. In staff's opinion, this would be the most effective and expeditious pathway in order to achieve the removal of the Administration Building. Mr. Africano will still be required, per the original agreement, to undertake the renovation/restoration of the adjacent building which was formerly the Infirmary at the ISSCS.

Staff is recommending one slight modification to the proposal made by Mr. Africano regarding the delay in the project deadline. We would propose, and that has been included in the accompanying resolution, that the agreement also require Mr. Africano and/or his contractor to provide the Town with a project progress update every 45 days. This would allow staff to determine whether or not the project is indeed moving at an acceptable pace and is on schedule for completion in October as pledged. If Town staff concludes that the project pace is such that the project will likely not be completed on time, that would give staff an opportunity to notify Council and intervene prior to the October 15, 2017 project deadline.

We presume that Mr. Africano and/or his representatives will attend the meeting on May 1 to address any questions that members of the Council may have for him.

RESOLUTION NO. _____

A RESOLUTION AMENDING A REDEVELOPMENT AGREEMENT WITH MR. NICOLAS AFRICANO PERTAINING TO THE DEMOLITION OF THE FORMER ISSCS ADMINISTRATION BUILDING AND THE RENOVATION OF THE FORMER ISSCS INFIRMARY BUILDING WITHIN THE ONE NORMAL PLAZA PLANNED UNIT DEVELOPMENT

WHEREAS, the Town of Normal is a Home Rule Unit of local government with authority to legislate in matters concerning its local government and affairs; and

WHEREAS, the Town of Normal previously entered a Development Agreement with Nicolas Africano concerning the demolition and restoration of buildings within the One Normal Plaza PUD (Ordinance No. 5333); and

WHEREAS, that Development Agreement required Africano to demolish the ISSCS Administration Building by May 2, 2017; and

WHEREAS, for financial reasons, Africano has been unable to proceed with the demolition of that building and has requested a time extension; and

WHEREAS, Africano has produced indications of financial assurances that the demolition will now be able to proceed; and

WHEREAS, in exchange for the time extension for the demolition, the Town desires a requirement for 45-day status updates on the Project; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of Normal to authorize an amendment to the Development Agreement to extend the time for the demolition of the ISSCS Administration Building and to require status updates.

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE TOWN OF NORMAL, ILLINOIS:

SECTION ONE: That the City Manager is authorized to negotiate an amendment to the Development Agreement with Nicolas Africano to extend to the time for the demolition of the ISSCS Administration Building, to require 45-day status updates, and to make other conforming changes as necessary or appropriate.

SECTION TWO: That the President of the Board of Trustees is authorized to execute the amendment to the Development Agreement negotiated under Section 1.

SECTION TWO: That the Town Clerk is authorized and directed to attest to the signature of the President of the Board of Trustees on the amendment and to retain a fully executed original in her office for public inspection.

ADOPTED this ____ day of _____, 2017.

APPROVED:

President of the Board of Trustees of the
Town of Normal, Illinois

ATTEST:

Town Clerk
(seal)

NICOLAS AFRICANO STUDIO

April 25, 2017

The Honorable Mayor Chris Koos and
the Normal Town Council
11 Uptown Circle
Normal, Illinois 61761

Dear Mayor Koos & Members of the Town Council,

First, let me express my sincere gratitude for the assistance and support that the Town of Normal has afforded me over the past 25 years on the redevelopment of various properties that I own within the One Normal Plaza PUD (former ISSCS property). I hope that you will agree that for the most part, we have enhanced the value of the beauty of the area throughout the sensitive and quality restoration of several former ISSCS buildings, including my own private residence.

My one frustration has been the inability to find a partner to undertake the renovation/restoration of the former General Administration building. However, the Town has worked diligently with me over the years in support of my efforts to find a win-win solution for that once glorious old building. Unfortunately, the physical condition of the building has reached a point in which any type of restoration or rehabilitation is simply not financially practical.

I am very appreciative for the agreement we entered into last September, whereby the Town agreed to reimburse me for the cost of demolishing the General Administration building in exchange for my commitment to undertake the restoration of the adjacent former ISSCS Infirmary building. Without the Town's support, I would not have been able to undertake either of those needed projects.

The agreement requires that the demolition of the General Administration building be substantially completed by May 2, 2017. I am sorry to report to you that I will not be able to meet that deadline and am therefore requesting an extension. The delay is caused by my inability to provide the necessary financial assurances to the project contractor, Stark Excavating, to allow them to proceed with the demolition project. I take full responsibility for this problem and offer my apology to the Town and to Stark.

Fortunately, I have resolved these issues and have received assurance from Stark that they will proceed with the project, starting with asbestos abatement on May 5, 2017 and completed by July 31, 2017, and will finalize the demolition on October 1, 2017. Further, I am close to securing the necessary financial support for the restoration of the Infirmary Building. The financing of this

project will be from Busey Bank, who is working with me to honor all my commitments under the terms of the agreement to the restoration of the former Infirmary building and the demolition of the General Administration building. I have attached a letter from Busey Bank, which I believe will satisfy the Town's requirement that I demonstrate proof of my ability to secure financing for both projects. Stark Excavating has written a letter outlining their abatement and demolition schedule. This letter is also enclosed. I therefore would respectfully request that the deadline for completion of the General Administration building demolition be extended to October 1, 2017.

Once again, I would like to thank the Normal Town Council and Town staff for all your support. I am sorry that the project has taken longer than anticipated and I will be very grateful for your approval of the requested deadline extension.

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Nicolas Africano". The signature is written in a cursive style with a long horizontal flourish at the end.

Nicolas Africano

Cc: Mark Peterson, City Manager



Tuesday, April 25, 2017

Mr. Nicolas Africano
Mr. Jeff Tinervin
Mr. Mark Peterson
601 Oglesby Avenue
Normal, IL 61761

RE: Development Agreement – ISSCS Administration & Infirmary Buildings

To All Concerned:

As a condition of the Development Agreement noted above between the Town of Normal and Nicolas Africano, a condition precedent to the agreement under 5-3 states that "evidence of equity or debt financing for the Project in an amount sufficient to complete the project" must be provided. The purpose of this letter is to address this condition.

Busey Bank agrees to provide financing for razing the ISSCS Administration Building. The agreement to provide financing is subject to a review of the contract for the work to be performed. Further, the maximum amount of financing to be provided is \$496,000 or the actual costs incurred in the completion of Phase 1. It is our understanding that as soon as the project is completed, the Town of Normal will issue funds to pay for the work performed under the contract and that those funds will be used to repay any and all debt to Busey Bank issued under Phase 1. Lastly, all conditions and obligations of the parties must be met within the time frames provided under the agreement in order for Busey to fulfill its intention to provide Phase 1 financing.

With respect to Phase 2 of the agreement, Busey Bank is reviewing current conditions. We walked the properties yesterday and the plan appears to be viable. Of course, the project must meet credit standards and be approved. However, based upon our initial review of the properties, conditions and plans for renovation, we believe the project is feasible from a financing standpoint.

We will immediately commence the process to obtain review and approval in order to provide Mr. Africano terms and conditions.

Please feel free to call me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Good".

Thomas M. Good, EVP
Commercial Market President
Busey Bank



EXCAVATING, INC.

April 25, 2017

Mr. Mark Peterson
City Manager
Town of Normal
11 Uptown Circle
Normal, IL 61761

Re: Demo at 1200 N Beech

Mr. Peterson:

At the request of Mr Nicolas Africano I have formulated a rough schedule for demolition of 1200 N Beech. If we can authorize our asbestos subcontractor to mobilize tomorrow they have told us they can be on site next week, so I would anticipate a start on or before May 5. They inform us their work will take 3 months, after which we will need to wait 10 days to begin demolish, with an ultimate completion date of the end of September (Oct 1?).

We are reliant on M&O Environmental on the asbestos portion of the project which a explained above is 75% of the total duration of the project. We have had successful projects with them in the past and they are well qualified to perform the work so I believe their schedule can be relied upon to a reasonable degree of certainty.

If you have any questions please contact me at (217) 306-0290 or via email dstarkjr@starkcompanies.com.

STARK

Sincerely,
Stark Excavating, Inc.

David Stark JR.
Vice President

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