



AGENDA ITEM EXECUTIVE SUMMARY

Title: Consideration of a Resolution Authorizing the City Administrator to Execute and Deliver a Notice of Termination of the Purchase Agreement By and Between the City of St. Charles and SMN Development, L.L.C.

Presenter: Rita Tungare

Please check appropriate box:

Government Operations	Government Services
Planning & Development	X City Council – New Business (4/21/14)

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

On April 7, 2014, the City Council considered an Ordinance granting a twelfth extension of a 2008 Purchase Agreement with SMN Development LLC regarding the sale of Lot 2 of the First Street Phase 3 Subdivision. (Lot 2 was to be combined with property SMN owns at 1 W. Main St. (former Manor Restaurant parcel) to construct a four-story retail/office building known as Building 9 in the First Street Redevelopment PUD.)

The City Council did not approve an extension of the purchase agreement. (Under a separate agenda item, the City Council also did not grant an extension of the date for construction of Building 9 to commence, and as a result, the PUD Preliminary Plan approval for Building 9 lapsed on April 8, 2014).

The purchase agreement specifies that SMN Development LLC must secure the following by April 8, 2014: 1) building permit and 2) an unconditional commitment for construction financing, with a construction escrow to be opened simultaneously with, and as a condition to, the closing. This date has passed and the conditions have not been met.

The Purchase Agreement states that if the conditions of the agreement are not fulfilled within the time limits set in the agreement that either party may terminate the agreement by written notice to the other party.

Attached is a Resolution directing the City Administrator to execute and deliver a notice of termination of the agreement to the purchaser, SMN Development LLC.

Attachments: *(please list)*

Resolution

Recommendation / Suggested Action *(briefly explain):*

A Resolution Authorizing the City Administrator to Execute and Deliver a Notice of Termination of the Purchase Agreement By and Between the City of St. Charles and SMN Development, L.L.C.

For office use only

Agenda Item Number: IG

City of St. Charles, Illinois
Resolution No. _____

**A Resolution Authorizing the City Administrator to Execute and Deliver a
Notice of Termination of Purchase Agreement By and Between the City of St.
Charles and SMN Development, L.L.C.**

**Presented & Passed by the
City Council on _____**

WHEREAS, SMN Development, L.L.C., an Illinois limited liability company (the “Developer”), has previously entered into a Purchase Agreement, dated September 2, 2008, and subsequent amendments dated January 5, 2009, September 21, 2009, April 5, 2010, December 5, 2011, January 17, 2012, February 12, 2012, May 7, 2012, July 16, 2012, May 6, 2013, August 19, 2013 and November 19, 2013 (collectively, the “Agreement”), with the City of St. Charles, Kane and DuPage Counties, Illinois (the “City”) for the purchase of a certain vacant parcel of real property (the “Premises”) located within the First Street Redevelopment Project Area; and

WHEREAS, SMN Development LLC has failed to meet the Conditions Precedent listed in Paragraph 8 of the Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, that Mark Koenen, City Administrator, is hereby authorized to execute a Notice of Termination of Purchase Agreement and deliver said Notice of Termination to the SMN Development LLC

PRESENTED to the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 21st day of April, 2014.

PASSED by the City Council of the City of St. Charles, Kane and DuPage Counties, Illinois this 21st of April, 2014.

APPROVED by the Mayor of the City of St. Charles, Kane and DuPage Counties, Illinois this 21st day of April, 2014.

MAYOR RAYMOND P. ROGINA

ATTEST:

CITY CLERK

Resolution No.: _____

Page 2

COUNCIL VOTE:

Ayes: _____

Nays: _____

Absent: _____

Abstain: _____