

## Legislation Text

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**File #:** 21-5206, **Version:** 1

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An ordinance authorizing and directing the City Manager to execute all documents necessary to convey approximately 171.393 acres of land located in Balch Springs, Texas (the “Property”) to Bloomfield Homes, L.P., ratifying all such actions taken in furtherance of such direction, and authorizing payment to the U.S. Department of Housing and Urban Development for release and modification of interests in the Property necessary to facilitate the sale of the Property.

On December 21, 2020, the City closed on the sale of 171.393 acres of City-owned property located wholly within the City of Balch Springs to Bloomfield Homes in accordance with the terms and conditions of the Real Estate Purchase and Sale Agreement approved by Council on July 6, 2020. The City was funded \$5,699,170.20 the following day, which was the \$5.7 million sales price offered by Bloomfield, less \$829.80 in closing costs.

This ordinance will approve the negotiated settlement of federal interest in the deed restricted portions of the property filed by the U.S. Department of Housing and Urban Development (HUD) in the amount of \$2,206,633.68 as consideration for amending the deed restrictions to allow private development, which will leave the City net sales proceeds in the amount of \$3,492,536.52 to be used for park projects.

### Background:

On July 7, 1994, the City purchased seven tracts of land totaling 385.45 acres through a foreclosure sale from HUD with park general obligation bonds in the amount of \$441,456.00 for the purpose of developing park and recreation facilities. One of these tracts eventually developed into the Girls’ Softball Complex and MISD’s new Vanguard High School.

This property was conveyed to HUD as trustee on March 4, 1993, when the developer, VentureCorp. Properties, Inc., and property owner, Mesquite Springs Joint Venture, defaulted on their \$17 million HUD-insured construction loan for the proposed South Creek Subdivision development. The deed conveyed to the City in 1994 contained several restrictions, among which was that four of the seven tracts be restricted to only municipal and public school use in perpetuity, that the property was subject to disposal under the provisions of the National Housing Act, and that the deed restrictions could only be altered, modified or changed by HUD upon written request by the City.

In May 2018, at the request of the Balch Springs City Manager, City staff reached out to HUD’s Director of Property Disposition Division (PDD) to open discussion and negotiations to modify the deed restrictions on two of the restricted tracts so that the property could be sold for private residential mixed-use development. PDD is responsible for administering the disposal process of HUD foreclosure property and the restrictive covenants placed on properties throughout the restrictive period. When HUD paid the \$17 million defaulted mortgage it created a federal ownership interest in the property and per federal law, the Secretary of HUD acting through the Director of PDD has the authority to “pursue final collection by way of compromise or otherwise all claims assigned by the foreclosure,” so when the City sells the property for private use, the proceeds from sale must be used to offset against the original \$17 million claim and HUD sales procedures must be followed to allow for competition to the extent practicable in order to achieve the highest possible return.

HUD determined that its \$17 million interest in the property amounted to a price of \$45,259.08 per acre, which for the 132.75 acres of restricted property amounted to \$6,007,930.00, which exceeded the appraised market value of the entire 171.393 acres the City was looking to sell. After HUD verified the City's appraised value, HUD eventually agreed to a 50/50 split of the sales proceeds, which amounted to \$2,206,633.68 based on Bloomfield's offer, and HUD agreed to amend the deed restrictions to allow for private development as long as 20 percent of the entire development was constructed as affordable housing as defined by HUD.

This proposed ordinance would approve the settlement of federal interest in the property and authorize the City Manager to execute payment to HUD in the amount of \$2,206,633.68. The amended deed restrictions were filed with Dallas County at closing by the title company thereby assigning the new deed restrictions to Bloomfield Homes as grantee. As a result of this action, the City's net sales proceeds of \$3,492,536.52 will be used for the funding and enhancement of the City's park and recreation system in accordance with the Special Election held on May 4, 2019. The City's bond counsel recommends expending the funds within two years.

**Recommended/Desired Action**

City staff recommends adoption of the ordinance.

**Attachment(s)**

Ordinance

Amendment of Deed Restrictions

Real Estate Purchase and Sale Agreement

Offer Letter and Acceptance by HUD

**Drafter**

Ted Chinn

**Head of Department**

Ted Chinn