

ORDINANCE NO. 9394-32

AN ORDINANCE
APPROVING AND AUTHORIZING THE EXERCISE OF
A CERTAIN REAL ESTATE OPTION AND CONTRACT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. A Real Estate Option and Contract by and between the City of Urbana, Champaign County, Illinois (the "City"), as the Optionee/Purchaser, and David L. Diana and Mary Jane Diana, as the Optionor/Seller, in the form of the Real Estate Option and Contract attached hereto and hereby incorporated by reference, be and the same is hereby approved.

Section 2. All actions of the officials, agents and employees of the City heretofore taken in connection with said Real Estate Option and Contract be and the same are hereby ratified and approved.

Section 3. The Mayor of the City or the Chief Administrative Officer of the City be and the same are hereby authorized to exercise the Option by providing notice in writing to the Optionor/Seller within the Option Period as provided in said Real Estate Option and Contract.

Section 4. From and after the effective date of this Ordinance, the proper officials, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute and deliver all such documents as may be necessary to carry out the intent and accomplish the purposes of this Ordinance and the said Real Estate Option and Contract.

Section 5. This Ordinance shall become effective immediately upon its passage and approval as required by law.

This ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a special meeting of said Council.

PASSED by the City Council this 27th day of September, 1993.


Phyllis D. Clark
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 4th day of October, 1993.

Tod Satterthwaite
Tod Satterthwaite, Mayor

THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN ORDINANCE
NO. 9394-32 AND IS INCORPORATED THEREIN BY REFERENCE.

Phyllis D. Clark
Phyllis D. Clark, City Clerk

September 27, 1993
Date





REAL ESTATE OPTION AND CONTRACT

This Real Estate Option and Contract (the "Contract") is made as of the date of the last to execute of the parties hereto (the "Effective Date") by and between the City of Urbana, Champaign County, Illinois (the "Optionee/Purchaser") and the undersigned party executing this Contract as the Optionor/Seller (the "Optionor/Seller").

W I T N E S S E T H

WHEREAS, Optionor/Seller is the owner of certain real estate as later more specifically described in this Contract; and

WHEREAS, the Optionee/Purchaser desires to obtain an option to purchase said real estate on such terms and conditions as are provided for herein; and

NOW, THEREFORE, in consideration of the representations, promises, covenants, agreements and undertakings set forth in this Contract, the Optionor/Seller and the Optionee/Purchaser hereby agree as follows:

Section 1. Grant of Option. Optionor/Seller, in consideration of One Thousand Dollars (\$1,000.00) paid by Optionee/Purchaser to Optionor/Seller (the "Option Fee"), receipt of which is acknowledged by Optionor/Seller, grants to Optionee/Purchaser the exclusive right and option to purchase, on the following terms and conditions (the "Option"), the real estate or portions thereof, together with all improvements and appurtenances, situated in the City of Urbana, Champaign County, Illinois, the legal description of which is:

Parcel 1:

Lots 4, 5, and 6 of Assessor's Subdivision of Lots 6, 7, and 8 of a Subdivision of a part of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter of Section 17, Township 19 North, Range 9 East of the Third Principal Meridian, situated in the City of Urbana, in Champaign County, Illinois.

Parcel 2:

Lots 1 and 2, except the North 60 feet thereof, in Block 3 in Ermentrout and Lindsey's Addition to the City of Urbana, situated in Champaign County, Illinois

(the "Real Estate"), together with all and any of Optionor/Seller's interest in any real estate adjacent to the above-described parcels.

Section 2. Option Periods. The term of this Option shall be for a period commencing as of the Effective Date and continuing until 5:00 p.m. on the 8th day of October, 1993.

Section 3. Purchase Price. Except as otherwise provided in Section 4 hereof, Optionee/Purchaser agrees to pay to Optionor/Seller the total sum of Five Hundred Fifty Thousand Dollars (\$550,000.00) for the Real Estate, which amount, adjusted by prorations and credits allowed the parties by this Contract, shall be paid to Optionor/Seller at closing if Optionee/Purchaser elects to exercise this Option. Any Option Fee or Additional Option Fee paid by the Optionee/Purchaser to the Optionor/Seller as herein provided shall apply to the payment of the purchase price in the event Optionee/Purchaser exercises the Option in accordance with and pursuant to this Contract.

Section 4. Special Covenants.

(a) During any Option periods, as described in Section 2 hereof, the Optionor/Seller shall not permit or allow or create any leases, liens, mortgages, clouds on title or other encumbrances, (except as the Optionee/Purchaser shall in writing consent to) to affect or exist with respect to the Real Estate. The Optionor/Seller hereby covenants that the persons or the entities executing this Contract as the Optionor/Seller are the owners of record of the Real Estate, and that there are no other such record owners than those executing this Contract.

Section 5. Quality of Title. Optionor/Seller acknowledges that as of the Effective Date, the Optionee/Purchaser is not aware of the nature of any encumbrances on the Optionor/Seller's title to the Real Estate. Within a period of not greater than seven (7) days from and after the Effective Date, Optionor/Seller shall provide title opinions, title insurance policies and commitments, and the like, or copies thereof, available to Optionor/Seller in connection with evaluating title to the Real Estate.

Section 6. Evidence of Title. In the event that Optionee/Purchaser elects to exercise this Option, Optionor/Seller shall, within a reasonable time, deliver to Optionee/Purchaser, as evidence of Optionor/Seller's title, a Commitment for Title Insurance issued by a title insurance company regularly doing business in the county where the Real Estate is located, committing the company to issue a policy in the usual form insuring title to the Real Estate in Optionee/Purchaser's name for the amount of the purchase price.

Optionor/Seller shall be responsible for payment of the owner's premium and Optionor/Seller's search charges. Permissible exceptions to title shall include only the lien of general taxes and special assessments; zoning laws and building ordinances; easements, apparent or of record, which do not underlie the

improvements; covenants and restrictions of record which are not violated by the existing improvements or the present use of the Real Estate and which do not restrict reasonable use of the Real Estate; existing mortgages to be paid by Optionor/Seller or assumed by Optionee/Purchaser at closing. If title evidence discloses exceptions other than those permitted, Optionee/Purchaser shall give written notice of such exceptions to Optionor/Seller within a reasonable time. Optionor/Seller shall have a reasonable time to have such title exceptions removed, or any such exception which may be removed by the payment of money may be cured by deduction from the purchase price at the time of closing. If Optionor/Seller is unable to cure such exception, then Optionee/Purchaser shall have the option to terminate this Contract in which case Optionee/Purchaser shall be entitled to refund of any Option Fee or Additional Option Fee.

Section 7. Deed of Conveyance. Conveyance of the Real Estate by Optionor/Seller to Optionee/Purchaser, or its assigns, shall be by a recordable warranty deed which conveys the Real Estate in fee simple absolute, subject only to exceptions permitted herein.

Section 8. Taxes and Assessments. In the event that the Optionee/Purchaser elects to exercise this option, general taxes and special assessments (if any) shall be paid in accordance with this Section 8. Real estate taxes apportioned up to the effective date of this Option Agreement shall be Optionor/Seller's expense. The proration thereof shall be calculated upon the basis of the most current tax information, including confirmed multipliers. Transfer tax and all special assessments which are a lien upon the Real Estate as of the date of this Contract shall be Optionor/Seller's expense. All such taxes and special assessments shall constitute a credit to Optionee/Purchaser against the purchase price, and shall release Optionor/Seller from any further liability to Optionee/Purchaser in connection therewith.

Section 9. Exercise of Option and Closing. The Option herein provided to the Optionee/Purchaser shall be exercised and the closing of this transaction shall occur either by the fact of concluding the purchase and taking possession within any Option period or by notice in writing to the Optionor/Seller within any Option period and with the fact of concluding the purchase and taking possession within ninety (90) days of such notice, at the time and place in Champaign County designated by Optionee/Purchaser.

Section 10. Notices. Notice of a request to extend or an election to exercise this Option shall be made by Optionee/Purchaser addressed to Optionor/Seller as follows:

Mr. David L. Diana and Mrs. Mary Jane Diana
Rural Route #2
Mayview, Illinois

All notices to the Optionee/Purchaser shall be addressed as follows:

Bruce K. Walden, Chief Administrative Officer
City of Urbana
400 S. Vine Street
Urbana, Illinois 61801

All notices provided for herein shall be deemed to have been duly given, if and when deposited in the U.S. Mail, postage prepaid and addressed to the Optionor/Seller at the above listed address, or when delivered personally to such party.

Section 11. Memorandum of Contract. The Optionee/Purchaser may and is hereby authorized to file in the appropriate county real estate records, either a copy of this Contract or an appropriate memorandum of the existence of this Contract, identifying the Real Estate, the Optionor/Seller, the Optionee/Purchaser and a brief summary of this Contract.

Section 12. Default and Enforcement. Default under this Contract shall mean failure to timely and fully perform with respect to any term or provision hereof. The Optionor/Seller and the Optionee/Purchaser shall have all rights and remedies available to them in law and in equity. The Optionor/Seller shall be liable for any consequential damages with respect to any willful default to close on the Real Estate transaction as hereby contemplated. No failure by the Optionor/Seller or the Optionee/Purchaser to elect to declare a default hereunder shall be deemed a waiver of their respective rights to make such election, and a waiver in one case shall not be a waiver of another. Default by the Optionor/Seller or the Optionee/Purchaser shall entitle the non-defaulting party to claim as damages all reasonable costs, attorney's fees and expenses incurred in connection with enforcement of this Contract, whether by suit or otherwise.

Section 13. Agreements and Binding Effect. This Contract shall be binding upon the Optionor/Seller and the Optionee/Purchaser, and their respective successors and assigns, according to its tenor and import. When any term or provision of this Contract directs that any party hereto perform or undertake a particular action, such party hereby covenants and agrees to timely and fully perform. Time is of the essence of this Contract.

Section 14. Amendments. This Contract may be amended from time to time, but only in writing by the Optionor/Seller and the Optionee/Purchaser.

Section 15. Execution and CounterParts. This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. By executing this Contract, the persons executing it as Optionor/Seller covenant that they are the record owners of the Real Estate, and all of the record owners thereof, and have full power and authority to so execute and deliver this Contract.

When executed by only the Optionee/Purchaser this Contract shall constitute an offer which shall expire and any Option Fee shall be returned, unless this offer is accepted by Optionor/Seller by execution of this Contract on or before _____, 1993 at 5:00 o'clock p.m..

This Contract is made as of the date of the last to execute of the parties hereto.

Optionor/Seller:

The City of Urbana, Champaign
County, Illinois, as Optionee/
Purchaser:

DAVID L. DIANA

By: _____
Bruce K. Walden, Chief
Administrative Officer

MARY JANE DIANA

Dated: _____

Dated: _____