

INTRODUCED: September 25, 2017

AN ORDINANCE No. 2017-196

As Amended

To designate The Maggie Walker Community Land Trust as a land bank entity for the purpose of assisting the City in addressing vacant, abandoned, and tax delinquent properties and to authorize the Chief Administrative Officer to enter into a Memorandum of Agreement, as amended, setting the terms and conditions of such designation.

\_\_\_\_\_  
Patrons – Vice President Newbille, Mr. Agelasto, and Mrs. Robertson

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney  
\_\_\_\_\_

PUBLIC HEARING: NOV 13 2017 AT 6 P.M.

WHEREAS, section 15.2-7512 of the Code of Virginia (1950), as amended, empowers the City of Richmond to designate an existing nonprofit entity and its governing board to carry out the functions of a land bank entity; and

WHEREAS, section 15.2-7500 of the Code of Virginia defines an “existing nonprofit entity” as a “nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and eligible to receive donations from a locality pursuant § 15.2-953;” and

WHEREAS, The Maggie Walker Community Land Trust is a nonprofit, duly incorporated Virginia non-stock corporation, with its registered office located in Richmond, Virginia, is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, and is

AYES:            9            NOES:            0            ABSTAIN: \_\_\_\_\_

ADOPTED:      FEB 26 2018      REJECTED: \_\_\_\_\_      STRICKEN: \_\_\_\_\_

eligible to receive donations from the City pursuant to section 15.2-953(B)(vi) of the Code of Virginia (1950), as amended; and

WHEREAS, by Resolution No. 2016-R051, adopted July 25, 2016, the Council of the City of Richmond expressed its sense that The Maggie Walker Community Land Trust's pursuit of activities that provide and preserve opportunities in the Richmond, Virginia, metropolitan area for persons of low and moderate income to secure housing that is decent and affordable lessens the burdens of the City government;

NOW, THEREFORE,

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That the City finds that the governance structure, articles of incorporation, charters, bylaws, and other corporate documents of The Maggie Walker Community Land Trust are sufficient to authorize The Maggie Walker Community Land Trust to carry out the provisions of the Land Bank Entities Act (the "Act"), codified at Title 15.2, Chapter 75 of the Code of Virginia (1950), as amended.

§ 2. That, pursuant to the Act, The Maggie Walker Community Land Trust is designated as a land bank entity in accordance with and subject to the terms and conditions of the Memorandum of Agreement, as amended, attached hereto.

§ 3. That the Chief Administrative Officer, for and on behalf of the City of Richmond, is hereby authorized to execute the Memorandum of Agreement, as amended, between the City of Richmond and The Maggie Walker Community Land Trust for the purpose of establishing the terms and conditions under which The Maggie Walker Community Land Trust shall be designated as a land bank entity in the city of Richmond and for the City pursuant to the provisions of the Act,

provided that such Memorandum of Agreement, as amended, must first be approved as to form by the City Attorney and must be substantially in the form of the document attached to this ordinance.

§ 4. This ordinance shall be in force and effect upon adoption.



# Richmond City Council

The Voice of the People

Richmond, Virginia

Office of the Council Chief of Staff

## Ordinance/Resolution Request

**TO** Allen Jackson, City Attorney

**THROUGH** Lou Ali, Council Chief of Staff *LA*

**FROM** Steven Taylor, Council Policy Analyst *ST*

**COPY** Cynthia Newbille, 7<sup>th</sup> District Council Member  
Parker Agelasto, 5<sup>th</sup> District Council Member  
Ellen Robertson, 6<sup>th</sup> District Council Member  
Sam Patterson, 7<sup>th</sup> District Liaison  
Amy Robins, 5<sup>th</sup> District Liaison  
Kiya Stokes, 6<sup>th</sup> District Liaison  
Haskell Brown, Deputy City Attorney  
Meghan Brown, Deputy Council Chief of Staff *MLB*

**RECEIVED**  
SEP 22 2017  
OFFICE OF CITY ATTORNEY

**DATE** September 22, 2017

**PAGE/s** 1 of 2

**TITLE** Designation of the Maggie Walker Community Land Trust as the City's Land Trust/Memorandum of Agreement

This is a request for the drafting of an **Ordinance**  **Resolution**

**REQUESTING COUNCILMEMBER/PATRON**

Newbille, Agelasto & Robertson

**SUGGESTED STANDING COMMITTEE**

Land Use, Housing & Transportation

### ORDINANCE/RESOLUTION SUMMARY

The patron requests that legislation be drafted for Council's consideration that designates the Maggie Walker Community Land Trust as the City's land bank in accordance with the terms of the attached Memorandum of Agreement.

### BACKGROUND

Community land trusts are used in attempts to preserve affordable housing in areas of rising real estate value. The Maggie Walker Community Land Trust has been developed to acquire and redevelop blighted, vacant, and tax-delinquent properties and to sell or lease the housing improvement on the real property to low-income and moderate-income families while retaining ownership of the underlying land.

Land trust mechanisms allow the transfer to purchasers/renters only interests in the housing structure while the trust retains the land. This lowers the overall costs of housing to a prospective low or moderate income purchasers/renters.

The Maggie Walker Community Land Trust is a Virginia non-stock corporation and a 501(c) 3, with registered offices in Richmond.

City Council approved resolution 2016-R051 which expressed support for the Maggie Walker Community Land Trust's formation and its attempt to provide housing opportunities for low and moderate income Richmonders.

#### FISCAL IMPACT STATEMENT

Fiscal Impact Yes  No

Budget Amendment Required Yes  No

Estimated Cost or Revenue Impact \$ N/A

Note: This legislation only designates the Land Trust as the City's land trust. Eventually, City interests in property may be transferred to the Land Trust by ordinance.

Attachment/s Yes  No  Memorandum of Agreement

## MEMORANDUM OF AGREEMENT

### As Amended

This Memorandum of Agreement (hereafter "this MOA") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, [2017] 2018, by and between the City of Richmond, a Virginia municipal corporation (hereafter "the City"), and The Maggie Walker Community Land Trust, a non-stock Virginia corporation (hereafter "MWCLT") (hereafter collectively "the Parties").

WHEREAS, section 15.2-7512 of the Code of Virginia empowers the City to designate an existing nonprofit entity and its governing board to carry out the functions of a land bank entity; and

WHEREAS, section 15.2-7500 of the Code of Virginia defines an "existing nonprofit entity" as a "nonprofit organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and eligible to receive donations from a locality pursuant § 15.2-953;" and

WHEREAS the City of Richmond supports and encourages the increased use of Land Banks as a method for increasing the development of Affordable Housing, addressing gentrification, and reducing blighted and vacant properties; and

WHEREAS, MWCLT is a nonprofit, duly incorporated Virginia non-stock corporation, with its registered office located in Richmond, Virginia, exempt from taxation under § 501(c)(3) of the Internal Revenue Code and eligible to receive donations from the City pursuant to § 15.2-953(B)(vi) of the Code of Virginia; and

WHEREAS, pursuant to the Land Bank Entities Act as codified at Chapter 75, Title 15.2 of the Code of Virginia (1950), as amended, and City of Richmond Ordinance No. 2017-\_\_\_\_ (adopted \_\_\_\_\_, [2017] 2018), MWCLT has been designated as a land bank entity in accordance therewith and subject to the terms and conditions of this MOA.

NOW, THEREFORE, the Parties agree as follows:

### **Section I. Purpose**

The Purpose of this MOA is to enable MWCLT to acquire and revitalize Eligible Properties and return them to a productive use that benefits the community. As a land bank, MWCLT will convert Eligible Properties into permanently affordable housing for low and moderate income households by conveying only the improvements on an Eligible Property subject to a 99-year ground lease and ensuring in perpetuity that the conveyance to each subsequent purchaser of such improvements will be subject to a ground lease with a new 99-year term, in addition to non-residential uses as described in Section III. For purposes of this MOA, "Eligible Properties" means properties that are vacant, and abandoned, and tax delinquent at the time of acquisition or vacant surplus properties owned by the City. For purposes of this MOA, the term "affordable housing" shall have the meaning prescribed by section 16-52 of the City Code (2015), as the same may hereafter be amended from time to time. "Low and moderate income" shall refer to

households whose total annual income is between 50 percent and 115 percent of the Area Median Income as defined by HUD for the Richmond, Virginia Metropolitan Statistical Area.

## **Section II. Main Priority**

The main priority of this MOA is to ensure that the use of real property conveyed to MWCLT seeks to develop and maintain permanently affordable housing for low and moderate income households. Eligible Properties transferred under the direct sale mechanism as described in Section 58.1-3970.1 of the Code of Virginia with current assessed values above \$50,000 but below or equal to \$100,000 will be used for the renovation or construction of single-family dwellings to be sold to a person or persons whose household income is below 100% Area Median Income.

The MWCLT Board shall adopt and provide to the City no later than July 1<sup>st</sup> of each year an annual plan detailing the goals and objectives for the upcoming year. The annual plan shall address, at a minimum, the following:

Criteria for the prioritization of communities on which to focus development: specific communities that are priorities for the upcoming year(s) pursuant to such criteria; development goals and strategies, both generally and with respect to specific developments in progress or under consideration; strategies to be employed to ensure that properties developed by MWCLT remain affordable into perpetuity; affordability requirements for properties to be developed; and MWCLT policies for use of development proceeds.

## **Section III. Subordinate Priorities**

Subordinate priorities of MWCLT include, in the following order, the redevelopment of Eligible Properties into (a) use for retail, commercial, or industrial activities; (b) preservation or rehabilitation of historical properties within historical districts as defined by Section 15.2-2201 of the Code of Virginia; (c) purely public spaces and places; and (d) urban agriculture.

## **Section IV. Source of Funds**

MWCLT may receive funding through grants and loans from the City, the Commonwealth, the federal government, and any other public or private source. MWCLT may also receive and retain payments for services rendered, rents and lease payments received, proceeds from disposition of property, proceeds from insurance coverage for losses incurred, investment income, and any other asset and activity lawfully permitted under section 15.2-7509 of the Code of Virginia.

## **Section V. Tax Exemption**

Pursuant to and in accordance with section 15.2-7510 of the Code of Virginia, MWCLT performs a public function on behalf of the city and shall not be required to pay any taxes upon property acquired or used by MWCLT pursuant to this MOA.

## **Section VI. Acquisition and Disposition of Property**

A. The City may convey Eligible Properties to MWCLT upon such terms and conditions and in accordance with such procedures as may be determined by the City's Chief Administrative Officer or designee thereof (hereafter, "the CAO"), provided the City Attorney has determined that such procedures conform to applicable law with regard to such Eligible Property. MWCLT shall maintain its real property in accordance with all applicable federal, state and local laws and regulations. Nothing herein shall be construed require the City to convey Eligible Properties to MWCLT, or to prohibit the City from transferring Eligible Properties to other non-profits or other entities or individuals in accordance with law.

Prior to the initial conveyance of any property to MWCLT pursuant to this MOA, the CAO (or designee) shall develop and submit to City Council a report detailing the following: the administration's policies and procedures for selecting and designating eligible properties to be conveyed to MWCLT and other non-profits; general terms and conditions for the conveyance of properties MWCLT for development; and the City's purposes and goals for designating MWCLT as a land bank, including the ways in which the designation of a land bank may support the goals of increasing affordable housing within the City, encouraging inclusive communities, and addressing gentrification and displacement of low-to-moderate income families. The City shall maintain a list of properties eligible for transfer to MWCLT pursuant to this MOA, which shall identify any property associated with a neighborhood development plan.

B. MWCLT shall maintain an inventory of all property held by MWCLT pursuant to this MOA and shall make such inventory available for public review and inspection at all times. MWCLT shall provide, at least once each calendar year on or before January 31, to the City Council, the Mayor and the CAO, a report of such inventory and such other reports as may reasonably be requested by any of them.

The MWCLT Board shall adopt and make available for public review eligibility guidelines and documentation requirements for organizations or individuals seeking to develop any Eligible Property (which shall address both for-profit and non-profit organizations, as well as the conveyance of properties both at and below fair market value). Such eligibility guidelines and documentation requirements shall be sufficient to evaluate the current capacity of any such organization or individual to develop the Eligible Property in accordance with the Main or Subordinate priorities set forth in Sections II and III of this MOA, respectively.

C. In addition to the MWCLT Board, MWCLT shall empanel a separate Citizens' Advisory Panel, consisting of nine members, as set forth below:

- a. One member designated by the CAO, who shall serve as Chair
- b. Two members appointed by the Richmond City Council
- c. Two members appointed by the Mayor of the City of Richmond
- d. Four members appointed by the MWCLT Board

The Citizens' Advisory Panel shall advise and make recommendations to the MWCLT Board with respect to the development of any property received by MWCLT from the City pursuant to this MOA. The disposition or transfer of any property received by MWCLT from the City pursuant to this MOA shall be subject to the approval of Citizens' Advisory Panel. MWCLT



may dispose of or transfer a property received by MWCLT from the City pursuant to this MOA without approval of the Citizens' Advisory Panel only upon a two-thirds vote of the MWCLT Board.

**Section VIII. Financial Interests of Board Members**

No member of the board or the Citizens' Advisory Panel or employee of MWCLT shall acquire any interest, direct or indirect, in real property of MWCLT, in any real property to be acquired by MWCLT, or in any real property to be acquired from MWCLT. No member of the board or the Citizens' Advisory Panel, or employee of MWCLT shall have any interest, direct or indirect, in any contract or proposed contract for materials or services furnished or used by MWCLT. For purposes of this Section, "indirect interest" shall include any employment or representative relationship with any organization or individual acquiring an interest in any MWCLT real property or contracts. MWCLT may adopt supplemental rules and regulations addressing potential and existing conflicts of interest and ethical guidelines to members of the board and employees of MWCLT.

**Section IX: Termination of Agreement**

This MOA may be terminated by either of the Parties upon the giving of written notice no fewer than 30 days prior to the effective date. Notice to the City shall be given to the CAO with a copy to Council Chief of Staff and a copy to the City Attorney. Notice to MWCLT shall be given to

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**Section X: Disposition of Assets**

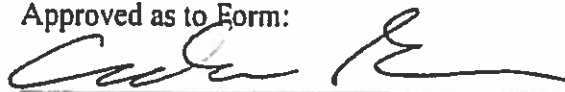
In the event of termination of this MOA pursuant of section IX hereof or dissolution of MWCLT, all properties acquired by MWCLT pursuant to this MOA in which a legally cognizable property interest in the real estate has not yet been conveyed shall become the property of the City or its designee. MWCLT agrees to execute all documents necessary to effectuate a transfer of such properties to the City or its designee.

IN WITNESS WHEREOF, the parties have caused this MOA to be duly executed intending thereby to be legally bound.

**For Maggie Walker Community Land Trust: For the City of Richmond:**

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Approved as to Form:



*Asst.* City Attorney

## **MOTION**

To amend Ordinance No. 2017-196 as follows:

Page 1, Line 6

After the word “Agreement”, insert a comma followed by the words “as amended” followed by another comma

Page 2, Line 17

After the word “Agreement”, insert a comma followed by the words “as amended” followed by another comma

Page 2, Line 19

After the word “Agreement”, insert a comma followed by the words “as amended” followed by another comma

Page 2, Line 23

After the word “Agreement”, insert a comma followed by the words “as amended” followed by another comma