

Date September 22, 2014

RESOLUTION APPROVING FIRST AMENDMENT TO THE AMENDED AND  
RESTATED URBAN RENEWAL DEVELOPMENT AGREEMENT WITH RIVER  
POINT WEST LLC,  
A PARCEL DEVELOPMENT AGREEMENT WITH SHERMAN GRAY'S LANDING  
HOTEL DEVELOPMENT, LLC, FOR CONSTRUCTION OF A 102 ROOM HOTEL  
AND  
A PARCEL DEVELOPMENT AGREEMENT WITH GRAY'S LANDING OFFICE  
DEVELOPMENT, LLC, FOR CONSTRUCTION OF A 72,000-SQUARE-FOOT  
OFFICE BUILDING IN THE RIVERPOINT WEST REDEVELOPMENT AREA.

WHEREAS, the City of Des Moines and River Point West LLC (the "Master Developer") are parties to the *Amended and Restated Urban Renewal Development Agreement* (the "Master Agreement") dated October 8, 2007, and approved by the Des Moines City Council on that date by Roll Call No. 07-1991 regarding the acquisition, clearance, installation of public infrastructure, and the preparation and sale of 'pad-ready' sites within an area designated as the Phase 1 Commercial Redevelopment Area and bounded on the north by Martin Luther King, Jr. Parkway, on the east by SW 9th Street, and on the west by the Mid-American Energy electrical substation, and on the south by Tuttle Street and the western extension of Tuttle Street west of SW 11th Street, and by Murphy Street east of SW 11th Street; and,

WHEREAS, the collapse of the national and local commercial real estate markets in 2008 and the slow recovery of those markets resulted in the Master Developer being previously unable to sell any of the 'pad-ready' sites to be created pursuant to the Master Agreement; and,

WHEREAS, the Master Agreement further provides for the sale to the Master Developer of the City-owned land between SW 9th and SW 11th Streets south of Martin Luther King Jr. Parkway, including those portions thereof described below as the City-Owned Hotel Parcel and the City-Owned Office Parcel; and,

WHEREAS, the Master Agreement requires that any buyer of a parcel of land from the Master Developer enter into a Parcel Development Agreement with the City whereby the buyer agrees to promptly redevelop the parcel for commercial use in conformance with a Redevelopment Plan approved by the City and having a minimum assessed value consistent with the approved Conceptual Development Plan under the Master Agreement.

FIRST AMENDMENT TO MASTER AGREEMENT

WHEREAS, the City Manager has negotiated a proposed *First Amendment to the Amended and Restated Urban Renewal Development Agreement* (the "First Amendment") with the Master Developer to allow the Master Developer to take the following actions, as more specifically described in the accompanying Council Communication:

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- To close on its purchase of City-Owned Hotel Parcel described below, for a prorated portion of the original purchase price for the larger City-owned tract in which it is located, and to assemble such portion with adjoining land already owned by the Master Developer, for sale to Sherman Gray's Landing Hotel Development LLC (the "Hotel Developer") for redevelopment with a hotel as further described below; and,
- To close on its purchase of the City-Owned Office Parcel for a prorated portion of the original purchase price for the larger City-owned tract in which it is located, and to assemble such portion with adjoining land already owned by the Master Developer, for sale to Sherman Gray's Landing Office Development LLC (the "Office Developer") for redevelopment with an office building as further described below; and,

WHEREAS, the City Manager recommends approval of the proposed First Amendment to the Master Agreement.

#### PARCEL DEVELOPMENT AGREEMENT FOR HOTEL

WHEREAS, the City Manager has negotiated a proposed Parcel Development Agreement with the Hotel Developer which provides for the construction of a hotel (expected to be a Holiday Inn Express hotel) in conformance with a proposed Redevelopment Plan, with 4 stories, at least 102 guest rooms, and a Minimum Assessed Value of \$4,614,000; and,

WHEREAS, the Urban Design Review Board has reviewed the design of the hotel as identified in the proposed Redevelopment Plan, and on September 16, 2014, the Board voted unanimously in support of a motion to recommend approval of the design; and,

WHEREAS, the City Manager recommends approval of the Parcel Development Agreement with the Hotel Developer and the Redevelopment Plan for the hotel.

#### PARCEL DEVELOPMENT AGREEMENT FOR OFFICE BUILDING

WHEREAS, the City Manager has negotiated a proposed Parcel Development Agreement with the Office Developer which provides for the construction of an office building in conformance with a Redevelopment Plan, with approximately 72,000 square feet of finished floor area on 3 stories, 40 below-grade parking spaces, and a Minimum Assessed Value of \$6,480,000; and,

WHEREAS, on September 16, 2014, the Urban Design Review Board has reviewed the preliminary design of the proposed office building and expressed its general support for the preliminary design, subject to moving the building further north, and the final design returning for the Board's review and approval at a later date; and,

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WHEREAS, relocation of the building may change the amount of the land required to accommodate the office building, thereby changing the legal description, the size, and the total purchase price at \$8.50 per square foot; and,

WHEREAS, the City Manager recommends approval of the Parcel Development Agreement with the Office Developer, subject to the legal description, size and total purchase price for the land to be conveyed by the Master Developer to the Office Developer being subject to approval by the City Council when the Redevelopment Plan for the office building is brought before the City Council for approval at a later date.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

FIRST AMENDMENT TO MASTER AGREEMENT

1. The proposed First Amendment to the Amended and Restated Urban Renewal Development Agreement with River Point West LLC is hereby approved. The Mayor and City Clerk are hereby authorized and directed to execute such agreement on behalf of the City.

2. The Mayor and City Clerk are further authorized and directed to sign a Special Warranty Deed on behalf of the City in a form approved by the City Legal Department for the conveyance of the City-Owned Hotel Parcel described below to the Master Developer, all as provided in the amended Master Agreement.

City-Owned Hotel Parcel

A part of Lot 1 and Lot 3, Terminal Place, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa and described as follows:

Commencing at the southwest corner of said Lot 3; thence North 50° 50' 36" East along the southerly line of said Lot 3, a distance of 5.43 feet to the Point of Beginning; thence North 15° 49' 31" West, 118.92 feet to a point on the northerly line of said Lot 3 and the East right-of-way line of SW 11th Street; thence North 15°17'41" West along said East right-of-way line, 107.54 feet; thence North 74° 32' 20" East, 277.50 feet; thence South 15° 27' 40" East, 144.58 feet to the southerly line of said Lot 3; thence South 75° 16' 11" West along said southerly line 87.95 feet; thence South 50° 50' 36" West continuing along said southerly line, 206.52 feet to the Point of Beginning and containing 1.10 acres (47,753 S.F.).

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3. Upon future approval by the City Council of the legal description, size and total purchase price for the land to be conveyed by the Master Developer to the Office Developer, the Mayor and City Clerk are further authorized and directed to sign a Special Warranty Deed on behalf of the City in a form approved by the City Legal Department for the conveyance to the Master Developer of the City-Owned Office Parcel within that larger Office Parcel, all as provided in the amended Master Agreement.

PARCEL DEVELOPMENT AGREEMENT FOR HOTEL

4. The proposed Redevelopment Plan for the hotel to be constructed on the Hotel Parcel described below is hereby approved.

5. The proposed Parcel Development Agreement with Sherman Gray's Landing Hotel Development LLC (the "Hotel Developer") for the construction of a hotel upon the Hotel Parcel described below is hereby approved. The Mayor and City Clerk are hereby authorized and directed to execute such agreement on behalf of the City.

Hotel Parcel

The Hotel Parcel consists of the City-Owned Hotel Parcel described above and a second parcel now owned by the Master Developer and more specifically described as follows:

A part of Lot 5, Factory Addition Plat 3, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa and described as follows:

Commencing at the southwest corner of Lot 4 of said Factory Addition Plat 3; thence South 82° 03' 15" West along the South line of said Lot 4 and Lot 5, a distance of 217.94 feet to the Point of Beginning; thence continuing South 82° 03' 15" West along the South line of said Lot 5, a distance of 257.00 feet to the East right-of-way line of SW 11<sup>th</sup> Street; thence North 37° 25' 21" West along said East right-of-way line, 34.02 feet; thence North 16° 09' 02" West continuing along said East right-of-way line, 25.37 feet to the northerly line of said Lot 5; thence North 50° 50' 36" East along said northerly line, 206.52 feet; thence North 75° 16' 11" East continuing along said northerly line, 87.95 feet; thence South 15° 27' 40" East, 102.38 feet; thence South 07° 56' 45" East, 70.62 feet to the Pint of Beginning and containing 0.80 acres (34,921 S.F.).

PARCEL DEVELOPMENT AGREEMENT FOR OFFICE BUILDING

6. The proposed Parcel Development Agreement with Sherman Gray's Landing Office Development LLC (the "Office Developer") for the construction of an office building upon the Office Parcel described below is hereby approved, subject to the conditions identified below.

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7. Upon future approval by the City Council of the legal description, size and total purchase price for the Office Parcel to be conveyed by the Master Developer to the Office Developer, and the insertion of that information into the Parcel Development Agreement with the Office Developer, the Mayor and City Clerk are further authorized and directed to sign that Parcel Development Agreement on behalf of the City.

ADMINISTRATION

8. The Office of Economic Developer shall continue to work with the Master Developer and Office Developer to revise the Redevelopment Plan for the Office Building to incorporate the recommendations of the Urban Design Review Board to the extent feasible, and to bring that Redevelopment Plan before the City Council for review and consideration for approval at the earliest opportunity.

9. The City Manager is hereby authorized and directed to administer the Master Agreement as amended by the First Amendment, and the Parcel Development Agreements in accordance with their terms. The City Manager is hereby further authorized and directed to sign the Consents to Sale in a form approved by the City Legal Department for the conveyance of the Hotel Parcel and the Office Parcel by the Master Developer to the Hotel Developer and the Office Developer in conformance with the respective Parcel Development Agreements, upon satisfaction of the conditions set forth in Section 4.1 of the applicable Parcel Development Agreement. The City Manager is hereby further authorized and directed to sign the Consents to Construction Financing in a form approved by the City Legal Department, upon satisfaction of the conditions set forth in Section 4.2 of the respective Parcel Development Agreement.

10. Upon receipt of the Minimum Assessment Agreements in the form required by the respective Parcel Development Agreements and approval of the same by the City Legal Department, the Mayor and City Clerk are hereby authorized and directed to execute such agreements on behalf of the City. The Legal Department shall then cause each Minimum Assessment Agreement to be forwarded to the Polk County Assessor for the Assessor's approval and execution, and recording with the Polk County Recorder.

11. The Finance Department is hereby authorized and directed to pay to the Master Developer the installments on the Supplemental Grant corresponding to the conveyance of each of the City-owned parcels as provided in the Master Agreement, upon requisition by the Office of Economic Development confirming that the Master Developer has qualified for the payment of such installment pursuant to Section 7.09 of the Master Agreement.

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( Council Communication No. 14-471 )

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K Brown*

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

**CERTIFICATE**

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk