★ **Roll Call Number**

Agenda Item Number
30

Date January 11, 2016

RESOLUTION APPROVING THIRD AMENDMENT TO THE URBAN RENEWAL DEVELOPMENT AGREEMENT WITH INDIGO DAWN, LLC FOR THE REDEVELOPMENT OF 800 19TH STREET AND SUBROGATION AGREEMENT FOR ADDITIONAL FINANCING BY LINCOLN SAVINGS BANK

WHEREAS, on June 14, 2010, by Roll Call No. 10-924, City Council approved an Urban Renewal Development Agreement with Indigo Dawn, L.L.C. ("Developer"), represented by Chaden Halfhill, its Managing Member, for the renovation of the building at 800 19th Street to have at least two stores and approximately 6000 square feet of gross floor area for office, professional service, and retail use in substantial compliance with the approved Conceptual Development Plan; and,

WHEREAS, the project has experienced unforeseen redesign issues, including but not limited to building foundation and sanitary sewer issues, and unanticipated challenges to coordinate the administration of the multiple sources of financing involved in the project, that have collectively contributed to project delays and cost overruns; and,

WHEREAS, on June 28, 2010, by Roll Call No. 10-1030, the City Council approved a First Amendment to the Development Agreement, which as so amended now provides that in consideration of the renovation of the building by the Developer, the City is providing an Economic Development Loan in the amount of $185,000 and a Bridge Loan in the amount of $220,000, and a Neighborhood Revitalization Facade Grant in the amount of $15,000; and,

WHEREAS, on July 15, 2013, by Roll Call No. 13-1107, the City Council approved a Second Amendment to Development Agreement with the Developer which allows for a delay until December 31, 2014 to complete the project, and for delays in the repayment of the Economic Development Loan and Bridge Loan as more specifically described in Council Communication No. 13-361; and,

WHEREAS, the Developer has been timely paying the installments on the two City loans, but has been unable to timely complete the renovation of the building; and,

WHEREAS, the Developer has obtained a commitment for additional financing from Lincoln Savings Bank which will be used to pay off the existing first mortgage loan and inject approximately $1,074,000 of additional financing into the project, subject to the City subordinating its second mortgage to the new first mortgage to Lincoln Savings Bank; and,

WHEREAS, the Office of Economic Development has negotiated a third amendment to the Development Agreement which grants a further extension of time for the completion of the building renovation and restructures the two City loans, all as more specifically described in the *Third Amendment to Development Agreement* and the *Mortgage and Debt Subordination Agreement* which are on file and available for public inspection in the office of the City Clerk.

(continued)

★ **Roll Call Number**

Agenda Item Number 30

Date January 11, 2016

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

1. The *Third Amendment to Development Agreement* between the City and Indigo Dawn, LLC, is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute such document on behalf of the City.

2. The *Mortgage and Debt Subordination Agreement* between the City, Indigo Dawn, LLC, and Lincoln Savings Bank is hereby approved, subject to such amendments thereto as may be required by Lincoln Savings Bank and approved by the City Manager and Legal Department as having no material detrimental impact upon the City's interests. The Mayor and City Clerk are hereby authorized and directed to execute such document on behalf of the City.

3. The City Manager or his designees are hereby authorized and directed to administer the Development Agreement as hereby amended, on behalf of the City.

(Council Communication No. 16- 008)

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				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

_____ Mayor

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.

_____ City Clerk