

Date February 22, 2016

**RESOLUTION APPROVING MASTER SUBORDINATION AGREEMENT AND ESTOPPEL CERTIFICATE FOR REFINANCING OF INGERSOLL SQUARE PHASE III AT 2005 INGERSOLL AVENUE**

**WHEREAS**, on November 18, 2013, by Roll Call No. 13-1809, the City Council approved an Urban Renewal Development Agreement and Conceptual Development Plan with Ingersoll Square Phase III Associates, LP (“Developer”), represented by Frank Levy, for a \$430,000.00 supplemental economic development grant with provision for potential repayment to the City for a mixed-use development at the northeast corner of Martin Luther King, Jr. Parkway and Ingersoll Avenue known as the Ingersoll Square Phase III project, and further approved HOME Agreement for a \$350,000.00 below-market interest rate loan to be used for the project and repaid in 2034; and

**WHEREAS**, said Development Agreement and HOME Agreement were subordinated to the Developer’s primary lender at the time of the aforementioned approval; and

**WHEREAS**, the Developer plans to refinance the project and has requested that the City enter into the proposed Ingersoll Phase III Master Subordination Agreement and Estoppel Certificate, on file in the office of the City Clerk, addressing the priority of the liens and interests of the parties providing funding for the project and continuing the subordination of the City’s Development Agreement and HOME Agreement; and

**WHEREAS**, the Master Subordination Agreement provides that the HOME Restrictive Covenants for affordability will not be effected by the refinance and will take priority over other funding sources.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. The Ingersoll Phase III Master Subordination Agreement and Estoppel Certificate between the City, Developer, and other lenders to the project is hereby approved.
2. The Mayor is hereby authorized and directed to sign the Agreement and the City Clerk is authorized and directed to attest to the Mayor’s signature, and to return the document to the Community Development Department Director or his designee for execution and recording by the other parties thereto.

(Council Communication No. 16- 099 )

APPROVED AS TO FORM:

Moved by \_\_\_\_\_ to adopt.

Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			

**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.

\_\_\_\_\_  
Mayor

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