

Date April 11, 2016

RESOLUTION APPROVING AMENDMENTS TO THE PARCEL DEVELOPMENT AGREEMENT AND THE DECLARATION OF COVENANTS FOR THE NEXUS APARTMENT PROJECT AT 415 SW 11th STREET BY NEXUS AT GRAY'S LANDING LLC, TO ALLOW HUD INSURED FINANCING

WHEREAS, on May 18, 2015, by Roll Call No. 15-0824, the City Council approved a Parcel Development Agreement with Nexus at Gray's Landing LLC (the "Developer") for the construction of a 142 unit apartment building at the southeast corner of SW 11th and Tuttle Streets with 197 off-street parking spaces, landscaping and streetscape enhancements, having an agreed upon minimum assessed value of \$9,940,000; and,

WHEREAS, the Developer is seeking to finance the construction of the project with a loan from Jones Lang LaSalle Multifamily, LLC, which will be insured by the U.S. Department of Housing and Urban Development ("HUD"); and,

WHEREAS, the HUD mortgage insurance program requires that the insured mortgage have priority over the restrictive covenants contained within the Parcel Development Agreement, and over the Declaration of Covenants established for the benefit of the City pursuant to the Parcel Development Agreement; and,

WHEREAS, the City's Office of Economic Development recommends that the City agree to subordinate the restrictive covenants contained within the Parcel Development Agreement and the Declaration of Covenants, to the HUD insured mortgage, as set forth in the proposed *Amendment to Declaration of Covenants* and *Amendment to Restrictive Covenants* with Nexus at Gray's Landing which are on file and available for inspection in the office of the City Clerk, to permit the Nexus apartment project to obtain financing.

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

1. The proposed *Amendment to Declaration of Covenants*, and *Amendment to Restrictive Covenants* are hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the documents on behalf of the City.
2. The City Clerk is hereby further directed to forward the signed documents to the Legal Department for release to and recording by Nexus at Gray's Landing LLC.

Date April 11, 2016

(Council Communication No. 16- 179)

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

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