

Date August 22, 2016

RESOLUTION APPROVING FIRST AMENDMENT TO URBAN RENEWAL DEVELOPMENT AGREEMENT WITH COLLEGE HILL ASSOCIATES, L.P., FOR THE RENOVATION OF COLLEGE HILL APARTMENTS AND THE CONSTRUCTION OF A NEW COMMERCIAL OFFICE BUILDING AT 921 6th AVENUE AND APPROVING PROPOSED AMENDMENT TO CONCEPTUAL DEVELOPMENT PLAN

WHEREAS, on June 27, 2016, by Roll Call No. 16-1059, the City Council approved an Urban Renewal Development Agreement (the "Agreement") with College Hill Associates, L.P. (the "Developer"), represented by Frank Levy of Newbury Management Company, whereby the Developer undertook to renovate the 86 unit College Hill Apartments, to construct a new 2-story, 22,400-square-foot Class-A commercial office building, to expand and improve the surface parking lot and landscaping, and to underground the overhead utilities (herein collectively referred to as the "Improvements"), on property at 921 6th Avenue in conformance with an approved Conceptual Development Plan; and,

WHEREAS, construction of the parking lot and landscaping shown by the approved Conceptual Development Plan requires that adjoining excess right-of-way be vacated and acquired by Developer for assemblage with the property; and,

WHEREAS, the Agreement was based in part upon the erroneous belief that the City owned the excess right-of-way to be vacated and acquired by the Developer to implement the approved Conceptual Development Plan; and,

WHEREAS, the parties subsequently discovered that such right-of-way is owned by the State of Iowa and the sale of such excess right-of-way is subject to the restrictions set forth in Iowa Code §306.23 which may prevent the City from being able to acquire all the excess right-of-way from the State for conveyance to the Developer; and,

WHEREAS, the parties desire to amend the Agreement and Conceptual Development Plan to allow the project to proceed with a smaller parking lot and reconfigured landscaping in the event the City is unable to acquire the excess right-of-way from the State and convey it to Developer, all as more specifically described in the proposed First Amendment to the Agreement and Amendment to Conceptual Development Plan which are on file and available for inspection in the office of the City Clerk.

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

1. The proposed Amendment to Conceptual Development Plan for the project, which is Exhibit "A-1" to the proposed First Amendment to the Urban Renewal Development Agreement with College Hill Associates, L.P., is hereby approved,

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2. The First Amendment to the Urban Renewal Development Agreement with College Hill Associates, L.P., is hereby approved.
3. The Mayor and City Clerk are hereby authorized and directed to execute the First Amendment on behalf of the City of Des Moines. The City Clerk is hereby further directed to record the executed First Amendment.
4. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the Forgivable Economic Development Loan and the installments on the Economic Development Grant pursuant to Article 4 of the Agreement as amended by the First Amendment.
5. The City Manager or his designees are hereby authorized and directed to administer the Agreement, as amended by the First Amendment, on behalf of the City and to monitor compliance by the Developer with the terms and conditions of the Agreement as so amended. The City Manager is further directed to forward to City Council all matters and documents that require City Council review and approval in accordance with the Agreement as so amended.

( Council Communication No. 16- 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				
MOORE				
WESTERGAARD				
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