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Date December 18, 2017

RESOLUTION APPROVING *SECOND AMENDMENT TO URBAN RENEWAL AGREEMENT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT WITH 5TH AND WALNUT PARKING LLC REGARDING THE SALE AND REDEVELOPMENT OF THE FIFTH AND WALNUT PARKING GARAGE AT 422 WALNUT STREET*

WHEREAS, on April 3, 2017, by Roll Call No. 17-0631, the City Council approved a *Urban Renewal Agreement for Sale of Land for Private Redevelopment* (the "Agreement") with 5th and Walnut Parking LLC (the "Developer"), represented by Justin Mandelbaum, whereby the Developer agreed to purchase the Fifth and Walnut Parking Garage (the "Property") and to redevelop that Property by the construction of the following "Improvements":

- o The construction of a parking garage fronting on 5th Street in the middle of the Property, with approximately 564 parking spaces;
- o The construction of a movie theater or hotel (the "South Building") fronting on Court Avenue; and,
- o The construction of a building (the "Residential Building") fronting on Walnut Street and having at least 200 residential dwellings. If the South Building is not a hotel the Residential Building shall also contain a hotel with at least 84 guest rooms; and,

WHEREAS, on July 17, ~~2017~~, by Roll Call No. 17-1202, the City Council approved a *First Amendment to Urban Renewal Agreement for Sale of Land for Private Redevelopment* (the "First Amendment") with the Developer which amended the Agreement to:

- o Allow 4 additional floors of office space to be added on top of the movie theater.
- o Increase the size of the garage by 107 parking spaces, to approximately 671 parking spaces;
- o Increase the Stipulated Price for the parking garage backstopped by the Parking Shortfall Loan to \$44,326,475 (an increase of \$46,547 per additional space x 107 added spaces); and,
- o Make further changes to the Agreement as discussed in Council Communication No.17-532; and,

WHEREAS, in response to a request by the Developer, the Economic Development Director has negotiated a *Second Amendment to Urban Renewal Agreement for Sale of Land for Private Redevelopment* (the "Second Amendment") with the Developer which is on file and available for inspection in the office of the City Clerk, and amends the Agreement to:

- o Delay in the completion of the Parking Garage Component, without changes to any other deadlines, from October 31, 2019 to February 28, 2020, to allow additional time to complete the construction of the now larger garage;
- o Acknowledge that the Parking Garage Component will contain 690 total parking stalls, an increase of 19 parking stalls from the 671-stall count provided and approved with the first amendment. This increase in stall count increases the "Stipulated Price" for the parking garage per the terms of the development agreement by \$884,393 to \$45,210,868; and

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- o Allow the property to be divided into the three building sites by a declaration of a horizontal property regime instead of a plat of survey.

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

1. The proposed *Second Amendment to Urban Renewal Agreement for Sale of Land for Private Redevelopment* with 5th and Walnut Parking LLC is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to execute the Second Amendment on behalf of the City.
3. The City Clerk is further authorized and directed to cause the Second Amendment to be promptly recorded.
4. The City Manager or his designees are hereby authorized and directed to administer the Agreement as amended by the First and Second Amendments on behalf of the City and to monitor compliance by the Developer with the terms and conditions thereof. The City Manager is further directed to forward to City Council all matters and documents that require further City Council review and approval in accordance with the Agreement as so amended.

(Council Communication No. 17- 841)

MOVED by Roger K Brown to adopt.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney
G:\APPDATA\LEGAL\Urban-Renewal\Metro\Projects\5th & Walnut\Roll Calls\RC Approve 1st Amend v2.doc

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