



Date May 7, 2018

RESOLUTION APPROVING FIRST AMENDMENT TO URBAN RENEWAL DEVELOPMENT AGREEMENT WITH JANSSEN LODGING, INC., FOR THE RENOVATION OF THE HOTEL FORT DES MOINES AT 1000 WALNUT AND APPROVING CONCEPTUAL DEVELOPMENT PLAN

WHEREAS, on August 8, 2016, by Roll Call No. 16-1340, the City Council approved a Development Agreement with Janssen Lodging, Inc. (the "Developer") for the renovation of the Hotel Fort Des Moines at 1000 Walnut (the "Hotel") at an anticipated project cost of \$37 million dollars; and,

WHEREAS, the terms of the Development Agreement stated that it must be amended following the Developer's entry into a franchise agreement with a hotel chain, which has now occurred; and,

WHEREAS, following the approval of the Development Agreement, the Developer has secured historic tax credits and will now remodel the Hotel in accordance with the requirements of the State Historical Preservation Office to preserve the historic features of the Hotel, eliminating the need for historic renovation requirements by the City in the Development Agreements; and,

WHEREAS, the City Manager has negotiated a proposed First Amendment to the Development Agreement altering the construction timing, amending the Conceptual Development Plan and requiring that Developer meet its obligations to State Historical Preservation Office in performing the renovation; and,

WHEREAS, the Urban Design Review Board at its regular meeting on April 24, 2018, recommended adoption of the terms of the proposed First Amendment to the Development Agreement and the amended Conceptual Development Plan by a vote of 6-0.

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

1. The First Amendment to Urban Renewal Development Agreement between the City and the Developer, the is hereby approved. The Mayor and City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Des Moines.
2. The City Manager or his designees are hereby authorized and directed to administer on behalf of the City, the attached First Amendment to Urban Renewal Development Agreement Between City of Des Moines, Iowa and Jansen Lodging, Inc., including the filing of the Agreement, and to monitor compliance by the Developer with the terms and conditions of the



Roll Call Number

Agenda Item Number

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Agreement. 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.

(Council Communication No. 18-239)

MOVED by _____ to adopt.

FORM APPROVED:

Handwritten signature of Thomas G. Fisher Jr.

Thomas G. Fisher Jr.
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COUNNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and 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

Prepared by/Return to:	Thomas G. Fisher Jr., Assistant City Attorney, 400 Robert D. Ray Drive Des Moines, IA 50309 (515) 283-4547
Taxpayer:	No Change
Grantors' Names:	Janssen Lodging, Inc.
Grantee's Name:	City of Des Moines, Iowa
Legal Description:	See Exhibit A, page 5

**First Amendment to Urban Renewal Development Between
City of Des Moines, Iowa and Janssen Lodging, Inc.**

This **First Amendment to Development Agreement** (the "Amendment"), is made on May ____, 2018, by and between the **City of Des Moines, Iowa**, a municipal corporation, having its offices at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa (the "City"), and **Janssen Lodging, Inc.**, an Iowa corporation (the "Developer").

WHEREAS, the City and Developer are parties to an Urban Renewal Development Agreement dated August 8, 2016 (the "Agreement") for a proposed redevelopment on real estate at 10th and Walnut Street in Des Moines, Iowa, more specifically described in Exhibit A; and,

WHEREAS, the parties desire to amend certain portions of the Agreement to revise the portions of the Agreement related to historic restoration and to adjust certain dates within the Agreement.

NOW, THEREFORE, the Parties Amend the Agreement as follows:

1. Section 1.1(B) is amended to state:

B. The Improvements shall be constructed in compliance with the Revised Conceptual Development Plan (the "Plan") approved by the Des Moines Urban Design Review Board on April 24, 2018. The approved Plan, including amendments will be on file and available for inspection in the office of the City Clerk of Des Moines, Iowa and amendments, upon approval, will be considered part of this Agreement. Developer shall construct the Improvements in compliance with the Plan. The Improvements shall also comply with the terms of this Agreement and with all applicable State and local laws and regulations. The Plan shall include

completely remodeling all guest rooms and bathrooms with new drywall, painting, furniture and fixtures (No existing room amenities will be used in the project.)

2. Section 1.1 is amended by deleting the section and in its place adding the following:

Sec. 1.1. Duty to Construct Improvements.

A. Developer, subject to the terms of this Agreement, shall undertake the Rehabilitation and remodeling of an eleven-story hotel to contain approximately 213,268 square feet of hotel, retail, restaurant and other commercial space.

B. The Improvements shall be constructed in substantial compliance with the approved Amended Conceptual Development Plan approved by the Des Moines Urban Design Review Board and attached hereto as Exhibit B and with such future amendments thereto as may be approved by City as provided in Article 2. The Improvements shall also comply with the terms of this Agreement and with all applicable State and local laws and regulations. Exhibit B will be on file and available for inspection in the office of the City Clerk of Des Moines, Iowa and shall not be filed of record with this Amendment.

C. The Improvements will be eligible for state historic tax credits and will comply with the requirements of the Iowa State Historical Preservation Office.

3. Section 1.2 is amended to read:

Sec. 1.2 Time for Completion of Improvements. Subject to Section 7.4 of this Agreement, Developer shall cause construction of the Improvements to be commenced by June 1, 2018, and shall cause such construction to be diligently pursued to completion. Subject to Sections 7.2 and 7.4 of this Agreement, the Improvements shall be substantially completed by June 30, 2020, so as to qualify for the issuance of the Certificate of Completion under Section 2.4 of this Agreement.

4. Section 2.1 is amended by replacing "August 1, 2037" with "May 1, 2039."
5. Section 2.3 is amended by deleting the section and replacing it with the following:

Sec. 2.3. Building Permits/Construction Permits. All construction and construction plans submitted by Developer must comply with City zoning, site plan and building code requirements. In addition, Developer is responsible for assuring that both the construction and the construction plans are in substantial compliance with the approved Conceptual Development Plan. City may withhold approval of building permits if the construction plans do not substantially comply with the approved Conceptual Development Plan. However, approval or issuance of building permit is not an acknowledgment that the construction and construction plans are in substantial compliance of the obligations of this Agreement and the approved Conceptual Development Plan. If there is any reason to question whether the construction or the construction plans substantially conform with the Conceptual

Development Plan, Developer shall immediately contact the City of Des Moines Office of Economic Development.

6. Article 4 is amended by deleting footnote 1.

7. Section 7.2 is amended to read:

Sec. 7.2. Special Remedies.

A. *Minor delay in completing the Improvements.* In the event the Improvements are not be substantially completed by June 30, 2020, to qualify for issuance of the Certificate of Completion as required by Section 1.2, but the Improvements are substantially completed by September 1, 2020, to then qualify for issuance of the Certificate of Completion, the delay shall not constitute a default under this Agreement and the only remedy is a delay in the start of the installments on the Development Grant as provided in Section 4.3.

B. *Major delay in completing the Improvements.* If the Improvements are not substantially completed by September 1, 2020, to qualify for issuance of the Certificate of Completion, it shall constitute a default under this Agreement. If such default in not timely remedied and Developer is declared to be in breach of this Agreement pursuant to Section 7.1, above, then City may elect to terminate this Agreement, whereupon, subject to the foregoing, neither party shall have any further obligation to the other under this Agreement, including, without limitation, with respect to the Urban Renewal Covenants.

8. Except as expressly amended above, the Agreement (as amended by the First and Second Amendments thereto) shall remain in full force and effect.

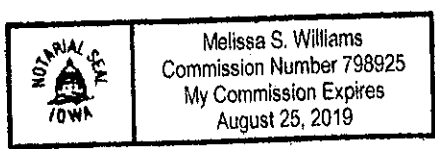
IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed on or as of the Effective Date.

JANSSEN LODGING, INC.
an Iowa corporation

By: *[Signature]*
Raj Patel, President

STATE OF IOWA }
COUNTY OF POLK } ss:

This instrument was acknowledged before me on May 4th, 2018, by Raj Patel as President of **Janssen Lodging, Inc.**, an Iowa corporation, on behalf of whom the instrument was executed.



[Signature]
Notary Public in the State of Iowa
My commission expires: August 25, 2019

CITY OF DES MOINES, IOWA

ATTEST:

By: _____
Diane Rauh, City Clerk

By: _____
T.M. Franklin Cownie, Mayor

STATE OF IOWA }
 } ss:
COUNTY OF POLK

On this ____ day of _____, 2018, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared T.M. FRANKLIN COWNIE and DIANE RAUH, to me personally known, and who, being by me duly sworn did state that they are the Mayor and City Clerk, respectively, of City of Des Moines, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of City of Des Moines, Iowa, by authority of its City Council, as contained in the Resolution adopted by City Council under Roll Call No. 18-_____ of City Council on the ____ day of _____, 2018, and that T.M. FRANKLIN COWNIE and DIANE RAUH acknowledged the execution of the instrument to be the voluntary act and deed of City of Des Moines, Iowa, by it and by them voluntarily executed.

Notary Public in the State of Iowa

APPROVED AS TO FORM:

Thomas G. Fisher Jr.
Assistant City Attorney

EXHIBIT A
LEGAL DESCRIPTION

Lots 1, 2, and Fractional Lot 3; that strip of ground formerly used as an alley between said Fractional Lot 3 and said Lot 2; the East 19.22 feet of Lots 7 and 8, and the 16.5 foot wide North/South alley right-of-way lying East of and adjoining said Lots 7 and 8 and lying East of and joining the 16.5 foot wide East/West alley right-of-way lying North of and adjoining said Lot 7 and the 16.5 foot wide East/West alley right-of-way lying North of and joining the East 19.33 feet of said Lot 7, all in Block 20, H.M. HOXIE'S ADDITION TO THE TOWN OF FORT DES MOINES, an Official Plat;

Lots 3 and 4 in Block 3 in WEST FORT DES MOINES, an Official Plat;

The East 19.22 feet of Lot 9 and the North/South alley lying East and adjoining said Lot 9, OFFICIAL PLAT OF GROUND COMPRISING LOTS 5 AND 6, BLOCK 20, HOXIE'S ADDITION TO THE TOWN OF FORT DES MOINES AND A SMALL PIECE OF GROUND NOT NUMBERED IN THE NORTHWEST CORNER OF KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES, an Official Plat;

All now included in and forming a part of the City of Des Moines, Polk County, Iowa.

EXCEPT PARCEL "A" as depicted and described in that certain Plat of Survey dated December 10, 2014, recorded January 21, 2015, in Book 15446 at Page 433 of the records of the Recorder for Polk County, Iowa.