



Date June 28, 2021

RESOLUTION APPROVING FIRST AMENDMENT TO URBAN RENEWAL DEVELOPMENT AGREEMENT WITH MERLE HAY INVESTORS, LLC AND MERLE HAY ANCHORS, LLC (ELIZABETH HOLLAND, OFFICER) FOR REDEVELOPMENT OF A PORTION OF THE MERLE HAY MALL (PHASE 2)

WHEREAS, on June 24, 2013, by Roll Call No. 13-1030, the City Council approved an Urban Renewal Development Agreement (the "Agreement") with Merle Hay Mall Limited Partnership, represented by Elizabeth Holland, Officer, for a second phase of improvements to Merle Hay Mall; and

WHEREAS, said Agreement set forth terms relating to the renovation of the real property in the vicinity of 3850 Merle Hay Road, in a portion of the Merle Hay Commercial Urban Renewal Area known as the western concourse of the Merle Hay Mall ("Property"), whereby Merle Hay Mall Limited Partnership agreed to rehabilitate the Property by demolishing the southern of the two parking garages on the Property, constructing exterior facade improvements facing Douglas Avenue, renovating a two-level portion of the Property for use by Flix Brewhouse movie theater and restaurant, renovation of approximately 9,000 square feet of additional space for occupancy by an additional retail tenant, and various other interior and exterior renovations (collectively "Improvements"), in exchange for economic development assistance from the City to be paid in eight semi-annual installments of \$200,000 per installment commencing November 1, 2026; and

WHEREAS, Merle Hay Mall Limited Partnership now has a successor entity, Merle Hay Investors, LLC ("Developer"), and the Property has been transferred to Merle Hay Anchors, LLC ("Owner"), and Developer and Owner intend to sell or lease outlots adjoining the Property and the Tower within the Property for redevelopment by private investors, with the proceeds of said sale(s)/lease to be used to repay Developer's commercial loan for the Improvements; and

WHEREAS, Developer has requested, and the City's Office of Economic Development has negotiated, a First Amendment to the Agreement, on file in the office of the City Clerk, whereby Developer will receive two additional semi-annual installments of \$200,000, in November 1, 2030 and May 1, 2031, respectively, in the event that the Developer or Owner fail to receive a minimum of \$400,000 cumulative net proceeds from the sale or lease of any or all portion(s) of said outlots and Tower by October 1, 2030; amending the Declaration of Covenants for the Property in relation to said Amendment; and acknowledging Merle Hay Investors, LLC as successor entity to Merle Hay Limited Partnership for purposes of the Agreement and all exhibits and amendments related thereto.

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



Roll Call Number

Agenda Item Number

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Date June 28, 2021

1. The Second Amendment to the Urban Renewal Development Agreement by and between the City and Merle Hay Investors, LLC, as successor to Merle Hay Mall Limited Partnership, and Merle Hay Anchors, LLC, and Exhibit thereto, are hereby approved, and the Mayor is authorized and directed to execute said documents on behalf of the City of Des Moines and the City Clerk to attest to his signature.
2. The City Manager and his designees are hereby authorized and directed to administer the Agreement, as amended, on behalf of the City and to monitor compliance by Merle Hay Investors, LLC and Merle Hay Anchors, LLC with the terms and conditions of the Agreement, as amended. 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 amended.

(Council Communication No. 21- 284)

MOVED by _____ to approve.

FORM APPROVED:

/s/ Glenna K. Frank
 Glenna K. Frank
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, P. KAY CMELIK, 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.

City Clerk