



Date February 21, 2022

APPROVING THIRD AMENDMENT TO URBAN RENEWAL AGREEMENT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT WITH 101 EAST GRAND PARKING, LLC (PAUL HAYES), FOR THE MULTI-PHASED REDEVELOPMENT OF THE BLOCK EAST OF CITY HALL

WHEREAS, on April 11, 2016, by Roll Call No. 16-0634, the City Council approved an Urban Renewal Agreement for Sale of Land for Private Redevelopment (the "Original Agreement") with 101 East Grand Parking, LLC (the "Developer"), represented by Paul Hayes, President, which provided for the sale of the following parcels by City to the Developer:

Parcels 2016-20, 2016-21 and 2016-22, as shown by the Plat of Survey recorded on March 24, 2016, in Book 15934, at Page 39, being a part of Block 3, East Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

and for the redevelopment of such parcels by Developer with a parking garage on Parcel 2016-21 to be reacquired by City under a lease purchase agreement, and with separate 4-story mixed-use buildings on Parcels 2016-20 and 2016-22 that are both required to have at least 75% of the ground floor devoted to retail or restaurant space and a combined total of at least 28,000 square feet of office space on the upper floors; and

WHEREAS, on April 23, 2018, by Roll Call No. 18-0702, the City Council approved a First Amendment to said Original Agreement and Conceptual Development Plan for the Phase 2 Improvements, providing for acquisition by 111 East Grand, LLC, represented by Tim Rypma, Vice President, of the parcel at 111 E. Grand Avenue, immediately north of the East Second Parking Garage, and redevelopment by said parcel with a 4-story commercial building with at least 75% of the ground floor devoted to retail, restaurant, and limited professional office use and the upper floors devoted to office use, in substantial conformance with the approved Conceptual Development Plan, subject to amending the economic development incentives for the building as provided for in said First Amendment; and

WHEREAS, Parcel No. 2016-22 constitutes the vacant lot south of the parking garage upon which Developer is to undertake an additional commercial development constituting the Phase 3 Improvements; and

WHEREAS, on December 21, 2020, by Roll Call No. 20-2119, the City Council approved the Second Amendment to the Original Agreement with the Developer by which the Developer exercised its option to extend finalization of a Conceptual Development Plan for the Phase 3 Improvements under Section 3.2(E) of the Original Agreement as amended, which operated as an automatic extension of equal duration of the Developer's obligations to close on acquisition of Parcel 2016-22 and to complete the Phase 3 Improvements, under Sections 1.03(B) and 2.2(C) of the Original Agreement, respectively, pursuant to four Phase 3 extensions totaling a twelve month (one year) delay in project deadlines, and by which Second Amendment the City further waived the contemplated fee for said four Phase 3 extensions but retained payment obligations as originally stated for the fifth and subsequent extensions; and

WHEREAS, the Developer has requested to again exercise its option to extend finalization of a Conceptual Development Plan for the Phase 3 Improvements under Section 3.2(E) of the Original Agreement, equally and automatically extending the Developer's obligations to close on acquisition of



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Parcel 2016-22 and to complete the Phase 3 Improvements, under Sections 1.03(B) and 2.2(C) of the Original Agreement, respectively; and

WHEREAS, the Original Agreement provides that the City may, in its sole discretion, allow extension of the Developer's deadlines under said Agreement, regardless of the payment of a fee, if Developer has demonstrated diligent progress and a good faith intent to continue to pursue its obligations under this Agreement; and

WHEREAS, the City and Developer have negotiated a Third Amendment to the Original Agreement, on file in the office of the City Clerk, allowing for Developer to request and obtain its final four Phase 3 extensions, totaling a further twelve month (one year) delay in project deadlines, with waiver of the contemplated fee for said extensions.

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

- 1. The Third Amendment to the Urban Renewal Agreement by and between the City and Developer is 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 Development Services Director and designee(s) are hereby authorized and directed to administer the Development Agreement on behalf of the City and to monitor compliance by the Developer, as defined above, with the terms and conditions of the Development Agreement, as amended. The Development Services Director is further directed to forward to City Council all matters and documents that require further City Council review and approval in accordance with the Development Agreement, as amended.

( Council Comm. No. 22-056 )

MOVED by \_\_\_\_\_ to adopt. Second by \_\_\_\_\_.

FORM APPROVED:

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

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, GATTO, SHEUMAKER, MANDELBAUM, VOSS, WESTERGAARD, and 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