

**Date** March 6, 2023.....

**RESOLUTION APPROVING FOURTH AMENDMENT TO AN URBAN RENEWAL DEVELOPMENT AGREEMENT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT WITH 101 EAST GRAND PARKING, LLC**

**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 Folt 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**, on February 21, 2022, by Roll Call No. 22-0243, the City Council approved the Third Amendment to the Agreement, by which 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



**Roll Call Number**

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Agreement, equally and automatically extending 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; and

**WHEREAS**, the Developer desires to further extend finalization of a Conceptual Development Plan for the Phase 3 Improvements under Section 3.2(E) of the Original Agreement as amended, which operates 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, and waive all extension fees.

**WHEREAS**, City staff have negotiated a Fourth Amendment to the Agreement extending the finalization of a Conceptual Development Plan for the Phase 3 Improvements to December 31, 2025.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. The Fourth Amendment to the Agreement between the City and Developer is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute and attest to, respectively, the Agreement on behalf of the City of Des Moines.

(Council Communication No. 23-121)

MOVED BY \_\_\_\_\_ TO ADOPT. SECOND BY \_\_\_\_\_.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COWNIE				
GATTO				
SHEUMAKER				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

\_\_\_\_\_ Mayor

**CERTIFICATE**

I, LAURA BAUMGARTNER, Acting 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.

\_\_\_\_\_ Acting City Clerk