



Roll Call Number

08-1326

Agenda Item Number

31 B

Date July 28, 2008

RESOLUTION APPROVING SECOND AMENDMENT TO URBAN RENEWAL DEVELOPMENT AGREEMENT WITH BOARD OF REGENTS, STATE OF IOWA, FOR THE USE AND BENEFIT OF THE UNIVERSITY OF IOWA (AS ASSIGNEE OF JOHN AND MARY PAPPAJOHN HIGHER EDUCATION CENTER FOUNDATION)

WHEREAS, on December 2, 2002, by Roll Call No. 02-2819, the City Council of the City of Des Moines approved an Urban Renewal Agreement for Sale of Land for Private Development ("Development Agreement") with John and Mary Pappajohn Higher Education Center Foundation ("Foundation") for the sale of Disposition Parcel No. 01-4A ("Property") and 01-4B ("Phase II Property") located south of Grand Avenue between Twelfth Street and realigned Thirteenth Street for the construction by the Foundation of a higher education learning center; and

WHEREAS, the Foundation desires to convey the Property and Improvements and assign all of its rights, interests and obligations under the Development Agreement to the Board of Regents, State of Iowa, for the use and benefit of the University of Iowa ("Board of Regents"); and

WHEREAS, the Board of Regents intends to continue the use of the Property and Improvements thereon as a higher education learning center as described on the documents regarding proposed use and major functions of the center attached as Exhibit 1; and

WHEREAS, the City and Board of Regents desire to amend the Development Agreement to accommodate the continued use of the Property and Improvements thereon as a higher education learning center in accordance with the terms and provisions set forth in Exhibit 1 and the City believes that the continued use and operation of the Property and Improvements by the Board of Regents pursuant to the Development Agreement, as amended, and the continued fulfillment generally of the Development Agreement, as amended, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents.

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

1. In accordance with Section 602 of the Development Agreement, the City hereby approves the conveyance of the Property and Improvements from the Foundation to the Board of Regents and the City does hereby approve the assignment by the Foundation of Developer's interests in the Development Agreement, including the rights to the option to purchase the Phase II Property, to the Board of Regents. The Mayor is hereby authorized and directed to execute such necessary documents acknowledging the City's consent and approval to the conveyance of the Property and Improvements and assignment of the Development Agreement to the Board of Regents.

2. The Second Amendment to the Development Agreement between the City and the Board of Regents, as assignee of the Foundation, on file in the Office of the City Clerk, is hereby approved and the Mayor is hereby authorized and directed to sign the Second Amendment to Development Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to the Mayor's signature and to affix the seal of the City.

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3. The City hereby acknowledges and confirms that the intended continued use of the Property and Improvements by the Board of Regents as a higher education learning center in accordance with the terms and provisions set forth on Exhibit 1 is compatible with and satisfies the covenants and use restrictions set forth in Sections 401(C) and 501(d) of the Development Agreement to maintain and devote the Property and Improvements for a higher education learning center and Section 501(f) of the Development Agreement to use the Property and Improvements in conformance with the land use requirements of the Metro Center Urban Renewal Plan.

4. The City Clerk or her designee is hereby authorized and directed to submit the Second Amendment to the Development Agreement to the Office of the Polk County Recorder for filing and recording in the manner provided by law.

5. The City Manager or his designees are hereby directed to continue to administer the terms of the Development Agreement, as amended, on behalf of the City; monitor compliance with terms of the Development Agreement; work with the Board of Regents with respect to utilities on the Phase II Property; review the conceptual development plan, evidence of equity capital and financing submitted by the Board of Regents for development and use of the Phase II Property and make appropriate recommendations to the City Council prior to the Board of Regents exercise of the option on the Phase II Property.

APPROVED AS TO FORM:

Moved by Kiernan to adopt.

Lawrence R. McDowell
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

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
T. M. Franklin Mayor

Diane Rauh
City Clerk