

★ Roll Call Number

13-1030

Agenda Item Number

51A ✓

Date June 24, 2013

**RESOLUTION APPROVING URBAN RENEWAL DEVELOPMENT  
AGREEMENT FOR REDEVELOPMENT OF A PORTION OF THE  
MERLE HAY MALL**

WHEREAS, on July 14, 2008, by Roll Call No. 08-1240, the City Council approved the Urban Renewal Plan for the Merle Hay Commercial Urban Renewal Area (the "Plan") which seeks to enhance private development within the urban renewal area through provision of infrastructure improvements and economic development assistance that is provided, in part, with tax increment revenues generated in the urban renewal area; and,

WHEREAS, Merle Hay Mall Limited Partnership (the "Developer"), represented by Elizabeth Holland, an officer, owns the real estate at 3850 Merle Hay Road in a portion of the Project Area known as the western concourse of the Merle Hay Mall and more specifically described as follows (the "Property");

Parcels "J" and "I" as shown by the Plat of Survey filed in Book 10663, at Pages 731-732, in the office of the Polk County Recorder, being a part of Lots 1, 2 and 3, Merle Hay-Aurora Place, an Auditor's Plat, all now included in and forming a part of the City of Des Moines, Iowa.

WHEREAS, the Property contains a substantial amount of underutilized or vacant commercial retail space with declining property values; and,

WHEREAS, on May 20, 2013, by Roll Call No. 13,850, the City Council approved preliminary terms of agreement with Merle Hay Mall Limited Partnership for a second phase of improvements to the Merle Hay Mall; and,

WHEREAS, the City Manager has negotiated an Urban Renewal Development Agreement ("the Agreement") with the Developer consistent with the preliminary terms of agreement, whereby the Developer has agreed to rehabilitate the Property by demolishing the southern of the two parking garages on the Property, constructing exterior façade improvements facing Douglas Avenue, renovating the two-level portion of the Western Concourse for use as an entertainment center with an eight screen movie theater and restaurant occupying approximately 37,000 square feet, and renovating approximately 9,000 square feet of additional space in the Western Concourse for occupancy by an additional retail tenant, and by making various other interior and exterior renovations, in exchange for an undertaking by the City to advance an Economic Development Grant to the Developer in eight semi-annual installments of \$200,000 each November 1st and May 1st, or the first business day thereafter, commencing November 1, 2026, as further described in the accompanying Council Communication; and,

WHEREAS, the Developer's obligations under the Agreement to rehabilitate the Property furthers the objectives of the Urban Renewal Plan to reinforce the existing development and to

( continued )

Date June 24, 2013

-2-

encourage new development in the Project Area that creates retail, office and other commercial space that appeals to local residents and visitors and businesses; that serves and strengthens the surrounding commercial corridors and residential neighborhoods; that retains, expands and creates new employment opportunities; and that retains and expands the existing tax base; and,

WHEREAS, the Developer's obligations under the Agreement to rehabilitate the Property will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Project Area in accordance with the Urban Renewal Plan; (ii) it will encourage further private investment and will attract and retain businesses and residents in the Project Area and the surrounding commercial corridors and neighborhoods to reverse the pattern of disinvestment and declining resident population; and, (iii) it will further the City's efforts to create and retain job opportunities within the Project Area which might otherwise be lost; and,

WHEREAS, the rehabilitation of the Property is a speculative venture and the construction and resulting redevelopment opportunities will not occur without the economic incentives contemplated by the Agreement; and,

WHEREAS, the City Council believes that the redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the project has been undertaken, and warrant the provision of the economic assistance set forth in the Agreement; and,

WHEREAS, on May 21 2013, the Urban Design Review Board reviewed and recommended approval of the terms of financial assistance for the redevelopment of the Property, and on June 18, 2013, the Urban Design Review Board reviewed the preliminary Conceptual Development Plan for the redevelopment of the Property.

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

1. The Urban Renewal Development Agreement between the City and Merle Hay Mall Limited Partnership, which provides for the redevelopment of the Property by the Developer and the payment of a TIF funded Economic Development Grant as described above, is hereby approved.
2. The Mayor is hereby authorized and directed to sign the Urban Renewal Development Agreement and the associated Minimum Assessment Agreement on behalf of the City of Des Moines, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such documents.

( continued )

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-3-

- 3. The City Clerk shall forward the signed Minimum Assessment Agreement to the City Legal Department to coordinate execution of that document by the Polk County Assessor, and the recording of that document with the Polk County Recorder.
- 4. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the Economic Development Grant pursuant to Article 4 of the Development Agreement.

( Council Communication No. 13- 318 )

MOVED by Griess to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
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