



Roll Call Number

14-1775

Agenda Item Number

24

Date November 17, 2014

RESOLUTION APPROVING MASTER SUBORDINATION AGREEMENT FOR
REFINANCING OF THE METRO LOFTS APARTMENT BUILDING AT 100 2nd
AVENUE BY SA METRO LOFTS LIMITED PARTNERSHIP

WHEREAS, on January 25, 2010, by Roll Call No. 10-152, the City Council approved an Urban Renewal Development Agreement (the "Agreement") with Metro Lofts LLC, represented by George Sherman, its President and Chief Manager, whereby Metro Lofts LLC undertook to redevelopment of the property at 100 2nd Avenue with a new apartment building now known as Metro Lofts and containing 111 apartment units and underground parking, in consideration of an Economic Development Grant to be provided by the City and advanced before construction of the building was completed; and,

WHEREAS, SA Metro Lofts Limited Partnership was created to serve as the development entity to develop and own the Metro Lofts project; and,

WHEREAS, on February 27, 2012, by Roll Call No. 12-0293, the City Council issued a Certificate of Completion for the Metro Lofts project upon a finding that the project had been completed in the fall of 2010 in substantial compliance with the Agreement and the approved Conceptual Development Plan; and,

WHEREAS, the City received a note and mortgage on the property to secure the obligation of Metro Lofts LLC to timely complete the construction of the Metro Lofts building, which note and mortgage were assigned back to Metro Lofts LLC once the City issued the Certificate of Completion; and,

WHEREAS, at this time, the only ongoing obligation imposed by the Agreement upon Metro Lofts LLC and SA Metro Lofts Limited Partnership, is the obligation to comply with the Urban Renewal Covenants which prohibit discrimination in the leasing, sale and operation of the apartments; require that the building and improvements be maintained in good condition and insured against casualty loss; and require that the property remain subject to taxation (except for temporary tax abatement under the City-wide Urban Revitalization Plan); and,

WHEREAS, SA Metro Lofts Limited Partnership desires to refinance the Metro Lofts building and has requested that: i) the City subordinate its remaining interest in the Property to the new senior mortgage to be given to Oak Grove Commercial Mortgage LLC; and, ii) the City re-execute an assignment in recordable form to properly memorialize the prior assignment of the note and mortgage back to Metro Lofts LLC.

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

(continued)

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1. The proposed *Master Subordination Agreement* between the City, Metro Lofts LLC, SA Metro Lofts Limited Partnership and other creditors, which is on file and available for inspection in the office of the City Clerk is hereby approved.
2. The Mayor and City Clerk are hereby authorized and directed to executed the *Master Subordination Agreement* on behalf of the City.
3. The Mayor and City Clerk are hereby further authorized and directed to execute a *Collateral Assignment of Mortgage* in a form approved by the City Legal Department, to memorialize the City's prior assignment of the note and mortgage to Metro Lofts LLC as described above.

(Council Communication No. 14- 552)

MOVED by Gatto 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	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE		✓		
TOTAL	6	1		

MOTION CARRIED APPROVED
Y. M. Franklin Mayor

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.

Diane Rauh City Clerk