

★ Roll Call Number

15-0825

Agenda Item Number

36 D

Date May 18, 2015

RESOLUTION APPROVING AMENDED AND RESTATED PARCEL
DEVELOPMENT AGREEMENT WITH SHERMAN GRAY'S LANDING OFFICE
DEVELOPMENT LLC AND REDEVELOPMENT PLAN FOR CONSTRUCTION
OF A 72,000-SQUARE-FOOT OFFICE BUILDING IN THE RIVERPOINT WEST
REDEVELOPMENT AREA

WHEREAS, the City of Des Moines and River Point West LLC (the "Master Developer") are parties to the *Amended and Restated Urban Renewal Development Agreement* (the "Master Agreement") dated October 8, 2007, and approved by the Des Moines City Council on that date by Roll Call No. 07-1991 regarding the acquisition, clearance, installation of public infrastructure, and the preparation and sale of 'pad-ready' sites within an area designated as the Phase 1 Commercial Redevelopment Area and bounded on the north by Martin Luther King, Jr. Parkway, on the east by SW 9th Street, and on the west by the Mid-American Energy electrical substation, and on the south by Tuttle Street and the western extension of Tuttle Street west of SW 11th Street, and by Murphy Street east of SW 11th Street; and,

WHEREAS, the Master Agreement requires that any buyer of a parcel of land from the Master Developer enter into a Parcel Development Agreement with the City whereby the buyer agrees to promptly redevelop the parcel in conformance with a Redevelopment Plan approved by the City and having a minimum assessed value consistent with the approved Conceptual Development Plan under the Master Agreement; and,

WHEREAS, on September 22, 2014, by Roll Call No. 14-1521, the City Council conditionally approved a Parcel Development with Sherman Gray's Landing Office Development LLC (the "Office Developer") for the construction of an office building with approximately 72,000 square feet of finished floor area on 3 stories, 40 below-grade parking spaces, and a Minimum Assessed Value of \$6,480,000, subject to later approval of a Redevelopment Plan for the project; and,

WHEREAS, the footprint and parcel required for the office building and the timeline for construction has changed necessitating an amendment to the original Parcel Development Agreement; and,

WHEREAS, the City Manager has negotiated an Amended and Restated Parcel Development Agreement with the Hotel Developer that reflects the amended footprint, parcel and timeline for the construction of the 72,000 square foot office building; and,

WHEREAS, the Urban Design Review Board has reviewed the design of the proposed office building and on October 21, 2014, voted 9-0 in favor of a motion to recommend approval of the final design subject to screening the west parking lot from Martin Luther King Jr. Parkway.

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

1. The proposed Amended and Restated Parcel Development Agreement with Sherman Gray's Landing Office Development LLC, and the proposed Redevelopment Plan for the construction of an office building upon the "Office Parcel" described below are hereby approved.

The Office Parcel is located at the southwest corner of SW 11th Street and Martin Luther King Jr Parkway, and consists of three parcels described as follows:

PARCEL "A" FACTORY ADDITION PLAT 3 DESCRIPTION:

A PART OF LOT 1, LOT 2 AND LOT "A", FACTORY ADDITION PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 15°27'40" EAST ALONG THE EAST LINE OF SAID LOT 1 AND LOT 2, A DISTANCE OF 100.26 FEET; THENCE SOUTH 74°32'20" WEST, 6.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF SW 9TH STREET; THENCE SOUTH 15°27'40" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 23.05 FEET; THENCE SOUTH 74°32'20" WEST, 142.07 FEET TO THE WEST LINE OF SAID LOT "A"; THENCE NORTH 15°28'57" WEST ALONG SAID WEST LINE, 123.61 FEET TO THE NORTHWEST CORNER OF SAID LOT "A"; THENCE NORTH 74°39'30" EAST ALONG THE NORTH LINE OF SAID LOT 1 AND LOT "A", 148.12 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.42 ACRES (18,145 S.F.).

PARCEL "B" FACTORY ADDITION PLAT 3 DESCRIPTION:

A PART OF LOT 4, AND LOT 5, FACTORY ADDITION PLAT 3, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF PARCEL "A" OF SAID FACTORY ADDITION PLAT 3 AS RECORDED IN BOOK 15041, PAGE 670 OF THE POLK COUNTY RECORDER'S OFFICE; THENCE NORTH 75°16'11" EAST ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 68.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE NORTH 75°32'02" EAST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 138.33 FEET; THENCE SOUTH 15°27'40" EAST, 8.52 FEET; THENCE SOUTH 74°32'20" WEST, 60.00 FEET; THENCE SOUTH 15°27'40" EAST, 103.79 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 302.00 FEET, WHOSE ARC LENGTH IS 29.38 FEET AND WHOSE CHORD BEARS SOUTH 12°40'27" EAST, 29.37 FEET; THENCE SOUTH 82°03'15" WEST, 128.09 FEET TO THE EAST LINE OF SAID PARCEL "A"; THENCE NORTH 7°56'45"

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WEST ALONG SAID EAST LINE 25.63 FEET; THENCE NORTH 15°27'40" WEST CONTINUING ALONG SAID EAST LINE, 102.38 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.40 ACRES (17,533 S.F.).

PARCEL "B" TERMINAL PLACE DESCRIPTION:

A PART OF LOT 1, LOT 3 AND LOT 4, TERMINAL PLACE, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 1, FACTORY ADDITION PLAT 3, AN OFFICIAL PLAT; THENCE SOUTH 74°39'30" WEST ALONG THE NORTH LINE OF LOT 1 AND LOT "A" OF SAID FACTORY ADDITION PLAT 3, A DISTANCE OF 148.12 FEET TO THE NORTHWEST CORNER OF SAID LOT "A"; THENCE SOUTH 15°28'57" EAST ALONG THE WEST LINE OF SAID LOT "A", 154.47 FEET TO THE NORTHEAST CORNER OF LOT 4 OF SAID FACTORY ADDITION PLAT 3; THENCE SOUTH 75° 32' 02" WEST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 138.33 FEET TO THE NORTHEAST CORNER OF LOT 5 OF SAID FACTORY ADDITION PLAT 3; THENCE SOUTH 75°16'11" WEST ALONG THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 68.46 FEET TO THE SOUTHEAST CORNER OF PARCEL "A" OF SAID TERMINAL PLACE AS RECORDED IN BOOK 15041, PAGE 670 OF THE POLK COUNTY RECORDER'S OFFICE; THENCE NORTH 15°27'40" WEST ALONG THE EAST LINE OF SAID PARCEL "A", 144.58 FEET TO THE NORTHEAST CORNER OF SAID PARCEL "A"; THENCE SOUTH 74°32'20" WEST ALONG THE NORTH LINE OF SAID PARCEL "A", 122.99 FEET; THENCE NORTH 15°24'29" WEST, 302.16 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MARTIN LUTHER KING JR. PARKWAY; THENCE NORTH 81°40'35" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 481.26 FEET TO THE WEST RIGHT-OF-WAY LINE OF SW 9TH STREET; THENCE SOUTH 15°27'40" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 236.06 FEET TO THE POINT OF BEGINNING AND CONTAINING 3.66 ACRES (159,262 S.F.).

2. The City Manager is hereby authorized and directed to administer the Amended and Restated Parcel Development Agreement in accordance with its terms. The City Manager is hereby further authorized and directed to sign the Consent to Sale in a form approved by the City Legal Department for the conveyance of the Office Parcel by the Master Developer to the Hotel Developer in conformance with the said Agreement, upon satisfaction of the conditions set forth in Section 4.1 of the Agreement. The City Manager is hereby further authorized and directed to sign the Consent to Construction Financing in a form approved by the City Legal Department, upon satisfaction of the conditions set forth in Section 4.2 of the Agreement.

3. Upon receipt of the Minimum Assessment Agreement in the form required by the Amended and Restated Parcel Development Agreement and approval of the same by the City Legal Department, the Mayor and City Clerk are hereby authorized and directed to execute such



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Agreement on behalf of the City. The Legal Department shall then cause the Minimum Assessment Agreement to be forwarded to the Polk County Assessor for the Assessor's approval, execution and recording.

(Council Communication No. 15- 252)

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K. Brown

Assistant City Attorney

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| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | ✓ | | | |
| COLEMAN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| HENSLEY | ✓ | | | |
| MAHAFFEY | ✓ | | | |
| MOORE | ✓ | | | |
| TOTAL | 7 | | | |

MOTION CARRIED

APPROVED

T. M. Franklin Council 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