



Roll Call Number

15-1154

Agenda Item Number

36

Date July 13, 2015

RESOLUTION APPROVING SECOND AMENDMENT TO DEVELOPMENT AGREEMENT WITH ST INVESTMENTS L.L.C., A/K/A ST DEVELOPMENT CO., FOR DEVELOPMENT IN THE VICINITY OF EAST FIFTH AND WALNUT STREETS

WHEREAS, on June 4, 2007, by Roll Call No. 07-1105, the City Council approved a Development Agreement with ST Investments, L.L.C., a/k/a ST Development Co. ("Developer") for development of residential and commercial improvements to property located at the northeast corner of the intersection of East Fifth and Walnut Street ("Property"), which Agreement provides that Developer shall undertake construction of at least 15,000 square feet of commercial space and 22,000 square feet of residential space on the Property; and

WHEREAS, on April 7, 2008, by Roll Call No. 08-583, the City Council approved a First Amendment to said Development Agreement, as well as a First Amendment to Offer to Buy Real Estate and Acceptance, to extend the deadline for satisfaction of conditions precedent to the conveyance of the Property from City to Developer, to revise the dates for commencement and completion of construction of the development improvements and to delay the dates for installment payments of the economic development grant; and

WHEREAS, on December 5, 2011, by Roll Call No. 11-2057, the City Council approved the issuance of a Certificate of Completion for the required commercial and residential improvements on the Property, finding and acknowledging that the Developer had satisfied its obligation to construct the required improvements in substantial compliance with the provisions of the Development Agreement and approved Construction Plans; and

WHEREAS, the Developer has requested and City staff have agreed to further amend the Development Agreement to allow the Developer to convert 3,665 square feet of unfinished commercially assessed commercial use area to finished residential area on the second floor of the building on the Property due to inability to lease the commercially assessed area, to amend the Declaration of Covenants granted by the Developer to the City to address said amendment, and to allow the Developer to request abatement of the actual taxable value added by the conversion of said area to residential space to the extent that said conversion exceeds the taxable value of said area as of January 1, 2015; and

WHEREAS, the amendments are in the best interests of the City.

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

1. That the Second Amendment to Development Agreement, on file in the office of the City Clerk, is hereby approved; the Mayor is authorized and directed to sign said Amendment; and the City Clerk is directed to attest to the Mayor's signature.
2. That the Amended Declaration of Covenants is hereby accepted, and the City Clerk is authorized and directed to sign and accept said document on behalf of the City.
3. That the City Manager or his designees are hereby authorized and directed to administer the Development Agreement and Declaration of Covenants, as amended, on behalf of the City, in accordance with the terms set forth therein and the Roll Calls granting approval thereof.



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(Council Comm. No. 15-370)

MOVED BY Hensley to adopt.

FORM APPROVED:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

Table with 5 columns: Council Action, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MAHAFFEY, MOORE, and TOTAL.

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

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Number
not
used.