

" WITHDRAWN "



★ Roll Call Number

Agenda Item Number

15-1317

63

Date July 27, 2015

APPROVING AMENDED AND RESTATED AGREEMENT WITH MACERICH
SOUTHRIDGE MALL LLC AND SOUTHRIDGE ADJACENT LLC FOR THE
REDEVELOPMENT AND REPURPOSING OF SOUTHRIDGE MALL AT SE 14TH
STREET AND E. ARMY POST ROAD

WHEREAS, Macerich Southridge Mall LLC, represented by Scott McMurray, Officer, and Southridge Adjacent, LLC, a related company (collectively "Macerich"), are the owners of the Project Area south of E. Army Post Road between SE 5th and SE 14th Streets containing the Southridge Mall, which is within the larger Superblock Area and Southside Economic Development District Urban Renewal Area (the "Urban Renewal Area"); and,

WHEREAS, on May 7, 2012 by Roll Call No. 12-0745, the City Council approved an Urban Renewal Development Agreement (the "Original Agreement") with Macerich which provides that Macerich was to construct certain specified improvements (the "Phase 1 Improvements") to the Southridge Mall in conformance with the approved Conceptual Development Plan by December 31, 2012, in exchange for a single Economic Development Grant from the City to be paid over 15 years, with the installments in years 1 through 10 to be equal to 100% of the incremental taxes generated by the entire Southridge Mall Project Area, and in years 11 through 15 to be equal to 75% of the such incremental taxes, subject to the limitation that the annual installments shall be limited to the incremental taxes generated by the Urban Renewal Area, all as more specifically described in Council Communication No. 12-233; and,

WHEREAS, the Phase 1 Improvements to the Southridge Mall were part of a larger project proposed by Macerich which includes the potential redevelopment of the entire Southridge Mall Project Area for a mixed use development including additional commercial retail and service uses, high-density residential uses and public uses (collectively the "Improvements"), all to be constructed in conformance with future amendments to the approved Conceptual Development Plan to assure that such redevelopment and use are in conformance with the Urban Renewal Plan and for uses supportive of the planned redevelopment of the Southridge Mall area; and,

WHEREAS, on February 11, 2013, by Roll Call No. 13-0224, the City Council approved the issuance of a Certificate of Completion evidencing the satisfactory completion of the Phase 1 Improvements in substantial conformance with the approved Conceptual Development Plan; and,

WHEREAS, Macerich has asked that the Original Agreement be amended to facilitate the sale and redevelopment of individual parcels within the Project Area by third parties; and,

WHEREAS, the Office of Economic Development has negotiated an Amended and Restated Urban Renewal Development Agreement (the "Amended Agreement") with Macerich, which amends the Original Agreement to provide a separate Economic Development Grant for

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each phase of the Improvements, with the grant for each phase of the Improvements to be based only upon the incremental taxes generated by the parcels redeveloped in that phase; and,

WHEREAS, the Amended Agreement is on file and available for inspection by the public in the office of the City Clerk; and,

WHEREAS, on June 16, 2015, the members of the Urban Design Review Board voted 8-0 in support of a motion to recommend approval of an amendment to the approved Conceptual Development Plan to add a senior housing project in the northeast quadrant of the Southridge Mall Project Area; and,

WHEREAS, on June 22, 2015, by Roll Call No. 15-1035, the City Council was prematurely asked to approve the Amended Agreement before agreement was reached on all the terms.

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

1. The City Council hereby makes the following findings regarding the proposed Amended and Restated Urban Renewal Development Agreement:
 - a) The economic development incentives provided by the City to Developer under the Amended Agreement are provided pursuant to the authority granted by the Urban Renewal Law and Chapter 15A of the Code of Iowa and are intended to assist in the redevelopment of the Project Area for commercial, office, retail, residential, educational and recreational uses by the construction of the Improvements and the redevelopment and use of the Project Area in conformance with the Amended Agreement and the Conceptual Development Plan.
 - b) The amount of the economic development incentives provided by the City to Developer under the Amended Agreement is based on the public benefit from the construction of the Improvements and the redevelopment and use of the Project Area in conformance the Amended Agreement and the Conceptual Development Plan.
 - c) The construction of the Improvements and the redevelopment and use of the Project Area in conformance with the Amended Agreement and the Conceptual Development Plan will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Urban Renewal 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 Urban Renewal Area and the surrounding neighborhoods to reverse the pattern of disinvestment and declining commercial occupancy and resident population; and,

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- (iii) it will further the City's efforts to create and retain job opportunities within the Urban Renewal Area which might otherwise be lost.
- d) The Improvements planned by the Developer pursuant to the Amended Agreement are a speculative venture and will not occur without the economic incentives provided by the Amended Agreement.
- e) The construction of the Improvements, the redevelopment and use of the Project Area in conformance the Amended Agreement and the Conceptual Development Plan, and the fulfillment generally of the Amended 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 such project has been undertaken, and warrant the provision of the economic assistance set forth in the Amended Agreement.
2. The Amended and Restated Urban Renewal Development Agreement between the City and Macerich described above, which is on file and available for inspection by the public in the office of the City Clerk, is hereby approved.
 3. The original Conceptual Development Plan for the Phase 1 Improvements, together with the amendment to add the senior housing project in the northeast quadrant of the Southridge Project Area, which are on file and available for public inspection in the office of the City Clerk, are hereby approved pursuant to Article 3 of the Amended Agreement.
 4. The Mayor and City Clerk are hereby authorized and directed to execute the Amended Agreement on behalf of the City of Des Moines.
 5. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the semi-annual installments on the Economic Development Grants for each completed phase of the Improvements pursuant to Article 5 of the Development Agreement.
 6. The City Clerk is hereby further directed to cause the Amended Agreement to be recorded in the land records in the office of the Polk County Recorder.
 7. This resolution and roll call replaces the action taken by the City Council on June 22, 2015, by Roll Call No. 15-1035, which is hereby repealed.

(Council Communication No. 15- 405)

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MOVED by _____ 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				
MOTION CARRIED			APPROVED	

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.

Mayor

City Clerk