



Roll Call Number

17-0631

Agenda Item Number

474

Date April 3, 2017

RESOLUTION APPROVING *URBAN RENEWAL AGREEMENT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT WITH 5TH AND WALNUT PARKING LLC FOR THE SALE AND REDEVELOPMENT OF THE FIFTH AND WALNUT PARKING GARAGE AT 422 WALNUT*

WHEREAS, on February 13, 2017, by Roll Call No. 17-0233, the City Council approved a competitive process for the sale of the Fifth and Walnut Parking Garage for private redevelopment; received a redevelopment proposal from 5th and Walnut Parking LLC (hereinafter referred to as "Walnut Parking") represented by Justin Mandelbaum; and scheduled a public hearing on March 20, 2017, to consider approval of the proposal by Walnut Parking if no competing proposal was received; and,

WHEREAS, pursuant to the Iowa Urban Renewal Law competitive disposition requirements set forth in Iowa Code §403.8, the City invited competing proposals for the purchase and redevelopment of the Fifth and Walnut Parking Garage, and established a deadline of 1:00 p.m., on Friday, March 17, 2017, for the submission of competing proposals; and,

WHEREAS, notice of the public hearing and of the invitation for competing proposals was published in the Des Moines Register on February 14, 2017; and,

WHEREAS, a competing proposal was timely submitted by Blackbird Investments LLC (hereinafter referred to as "Blackbird") represented by Justin Doyle; and,

WHEREAS, the proposal from Blackbird was immediately shared with Walnut Parking, and both development teams were invited to propose conceptual amendments to their agreements that benefit the City by reducing the City's risks, or increasing the quality or size of the Improvements; and,

WHEREAS, on March 20, 2017, by Roll Call No. 17-0536, the City Council received the competing proposal from Blackbird and continued the public hearing on the proposed sale of the Fifth and Walnut Parking Garage until April 3, 2017; and,

WHEREAS, Blackbird and Walnut Parking have both provided supplemental materials to support their proposals; and,

WHEREAS, on March 28, 2017, the Urban Design Review Board reviewed both proposals and was asked to apply the Selection Criteria identified in the Roll Call No. 17-0233 to recommend one of the proposals for approval by the City Council, but the only motion considered by the Board applicable to this matter was a motion to approve the staff recommendation to select the Blackbird proposal, which motion failed on a vote of 2-0 with 4 members abstaining; and,

WHEREAS, the City's Office of Economic Development has negotiated final terms of agreement with Walnut Parking whereby:

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- 5th and Walnut has undertaken to purchase the Property for a purchase price of \$4 million, and to redevelop the Property by the construction of the following "Improvements":
  - The construction of a parking garage fronting on 5th Street in the middle of the Property, with approximately 564 parking spaces;
  - The construction of a movie theater fronting on Court Avenue (the "Theater Building") having at least 2 stories; and,
  - The construction of a building (the "Residential Building") anticipated to have 32 stories (but required to have at least 25 stories) fronting on Walnut Street with a hotel having at least 50 lodging rooms on the lower floors and approximately 200 residential dwelling on the upper floors.
 with the Parking Garage to be constructed first, and either the Theater Building or Residential building to be constructed second.
- The City would undertake to provide the following financial incentives:
  - A Forgivable Economic Development Loan in the amount of \$4 million for the benefit of the Residential Building, to be advanced upon sale of the Property and forgiven upon substantial completion of the Residential Building;
  - Urban renewal construction period tax abatement on each phase;
  - An economic development loan designated as the "Parking Shortfall Loan" to be advanced in semi-annual installments over 20 years commencing on the substantial completion of the parking garage. The semi-annual advances are equal to the installments required to fully amortize Walnut Parking's first mortgage loan having a principal value of \$39,345,946 at a market rate of interest, reduced by the net operating income from the operation of the parking garage;
  - An economic development grant for each phase whereby the City returns 100% of the tax increment generated by that phase for 20 years, provided however that any tax increment generated by the Residential Building and Theater Building after Year 11 for each respective building, above the amount returned in Year 11, shall be applied to reduce the balance of the Parking Shortfall Loan;
  - Upon full repayment of Walnut Parking's first mortgage loan, the City shall forgive a portion of the Parking Shortfall Loan equal to \$6,826,779 of the principal, together with the accrued interest that portion;

all as more specifically described in the *Urban Renewal Agreement for Sale of Land for Private Redevelopment* between the City and Walnut Parking (the "Agreement") which is on file in the office of the City Clerk.

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



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1. Upon due consideration of the facts and statements of interested persons, the objections to the sale and conveyance of the Property to 5th and Walnut Parking LLC as set forth in the Agreement are hereby overruled and the hearing is hereby closed.
2. The City Council hereby makes the following findings regarding the proposed sale and conveyance of the Property pursuant to the Agreement:
  - a) Walnut Parking's obligation under the Agreement to construct the Improvements furthers the objectives of the Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents and maintain taxable values within the Urban Renewal Project Area, to increase employment opportunities, to encourage the development of market-rate housing in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area, and to encourage intensive and coordinated commercial and residential mixed-use development.
  - b) Walnut Parking's obligation under the Agreement to construct the Improvements furthers the objectives of the Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents and maintain taxable values within the Urban Renewal Project Area, to increase employment opportunities, to encourage the development of market-rate housing in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area, and to encourage intensive and coordinated commercial and residential mixed-use development.
  - c) The economic development incentives for the development of the Improvements shall be provided by the City to Walnut Parking pursuant to the Urban Renewal Law and Chapter 15A of the Code of Iowa and Walnut Parking's obligation under the Agreement to construct the Improvements will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Court Avenue area in accordance with the Urban Renewal Plan, the What's Next, Downtown? plan and the PlanDSM: Creating Our Tomorrow plan; (ii) it will further the City's efforts to create and retain job opportunities within the Project Area which might otherwise be lost; (iii) it will provide a new upscale rental housing option not presently available in the downtown area; (iv) it will provide convenient access to recreational activities not otherwise available in the downtown area; and, (v) it will encourage further private investment and will attract and retain residents and businesses in the Court Avenue area.
  - d) The fair market value of the Property subject to the terms, conditions, restrictions, requirements, limitations and covenants imposed by the terms of the Agreement is Four Million Dollars (\$4,000,000).

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- e) 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.
3. The *Urban Renewal Agreement for Sale of Land for Private Redevelopment* between the City and 5th and Walnut Parking LLC, is hereby approved.
4. The Mayor is hereby authorized and directed to execute the Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the Agreement.
5. Upon request by the Office of Economic Development and approval by the City Legal Department, the Mayor and City Clerk are further authorized and directed to sign following documents required in the administration and implementation of the Agreement:
  - a) Special Warranty Deed in the form of Exhibit "A" to the Agreement.
  - b) Skywalk Agreement and the exhibits thereto in the form of Exhibit "F" to the Agreement.
  - c) Partial Subordination of Mortgage to Walnut Parking's Preconstruction Mortgage as provided in Section 2.10(B) of the Agreement
  - d) Partial Subordination of Mortgage to Walnut Parking's Construction Mortgage as provided in Section 4.3 of the Agreement.
  - e) Partial Release of Mortgage on the Theater Parcel as provided in Section 5.3 of the Agreement.
  - f) Partial Release of Mortgage on the Residential Parcel as provided in Section 5.5 of the Agreement.
6. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the economic development grants and loans as the same become due and payable pursuant to Article 9 of the Agreement.
7. The City Manager or his designees are hereby authorized and directed to administer the Agreement on behalf of the City and to monitor compliance by Walnut Parking with the terms and conditions of the Agreement. The City Manager is further directed to forward to City Council all matters and documents that require further City Council review and approval in accordance with the Agreement.

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( Council Communication No. 17- 346 )

MOVED by Hensley to adopt, subject to the Agreement being first amended by April 12, 2017, to incorporate a number of changes, and with the final Agreement to be subject to approval by the City Manager and the Legal Department to confirm that these changes have been appropriately incorporated into the Agreement. The changes are:

- 1) Construction of the garage shall be completed by October 31, 2019.
- 2) Construction must be commenced on the proposed theater building or a 150 room hotel on the southern parcel by October 31, 2019. If the south parcel is developed with a hotel, then the assistance for the hotel shall be limited to 90% of Project TIF, and the Developer must pay \$1 million to City in partial repayment of the \$4 million Forgivable Economic Development Loan.
- 3) Construction must be commenced on the residential building on the northern parcel by October 31, 2019. If a hotel is constructed on Court Avenue, then the residential building on Walnut Street can be devoted entirely to apartments.
- 4) If a hotel is not constructed on the Court Avenue frontage, then the residential building on Walnut Street shall contain a hotel with at least 84 lodging rooms.
- 5) Other amendments negotiated by the City Manager and consistent with the principle terms of the Agreement as summarized in the roll call, and the first four amendments above.

AND, to direct the City Manager to schedule a work session to consider appropriate policies and procedures regarding the sale of City-owned real estate for private redevelopment.

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	✓			
MOORE	✓			
WESTERGAARD	✓			
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  
*T. M. Franklin*  
Mayor

*Diane Rauh*  
City Clerk