



Roll Call Number

17-0775

Agenda Item Number

41

Date May 8, 2017

RESOLUTION APPROVING FIRST AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT WITH FDM DEVELOPMENT PARTNERSHIP, LLLP, FOR THE REHABILITATION OF EXISTING BUILDINGS IN HISTORIC FORT DES MOINES FOR RESIDENTIAL USE

WHEREAS, on August 22, 2016, by Roll Call No. 16-1412, the City Council approved an *Amended and Restated Development Agreement* (the "Agreement") with Fort Des Moines Restoration, LLC, represented by Justin Doyle, Member, regarding a proposed project to rehabilitate six of the existing buildings in Historic Fort Des Moines into approximately 142 market rate housing units, to improve and widen the private streets known as Gruber and Thayer Streets within the project area, and to install all necessary utilities and horizontal infrastructure for such development at an estimated total project cost of \$38 million; and,

WHEREAS, as anticipated and allowed by Section 1.5 of the Agreement, Fort Des Moines Restoration, LLC, has assigned all its right, title and interest in the Agreement and to the subject property to FDM Development Partnership, LLLP (the "Developer"), and the Developer has assumed all the obligations and duties of Fort Des Moines Restoration, LLC, under the Agreement; and,

WHERE, the project was unable to initiate construction in 2016 as originally anticipated due to the inability to finalize project financing for a number of reasons, including a delay in receiving an award under the State Historic Tax Credit program and ongoing volatility in the state and federal tax exempt bond markets; and,

WHEREAS, the Developer has requested the Agreement be amended to grant a one-year extension of the timeline for commencement and completion of construction; to impose an equal delay in payment of the financial incentives by the City; and to allow the Developer to more easily assign its interest in the Agreement as security for the necessary financing; and,

WHEREAS, the City's Office of Economic Development has negotiated a *First Amendment to Amended and Restated Development Agreement* (the "First Amendment ") with the Developer that provides for the amendments identified above, and is on file and available for inspection by the public in the office of the City Clerk.

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

1. The *First Amendment to Amended and Restated Development Agreement* between the City and FDM Development Partnership, LLLP, is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the First Amendment on behalf of the City of Des Moines.

(continued)

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2. The City Clerk shall cause the First Amendment to be recorded in the office of the Recorder of Polk County, Iowa.
3. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the Economic Development Grant pursuant to Article 4 of the Agreement as amended by the First Amendment.
4. The City Manager or his designees are hereby authorized and directed to administer the Agreement as amended by the First Amendment, on behalf of the City and to monitor compliance with the terms and conditions of the Agreement as so amended. The City Manager is further directed to forward to City Council all matters and documents that require City Council review and approval in accordance with the Agreement as so amended.

(Council Communication No. 17- 404)

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	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED
T. 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