



Roll Call Number

17-1257

Agenda Item Number

41

Date July 24, 2017

APPROVING AGREEMENT WITH INGERSOLL SQUARE PHASE III ASSOCIATES, L.P., TO TREAT THE SALE OF OWNERSHIP AND CONTROL OF THAT ENTITY AS A SALE OF THE INGERSOLL SQUARE PHASE III PROPERTY OWNED BY THAT ENTITY FOR PURPOSE OF THE URBAN RENEWAL DEVELOPMENT AGREEMENT

WHEREAS, on November 18, 2013 by Roll Call No. 13-1809, the City Council approved an Urban Renewal Development Agreement with Ingersoll Square Phase III Associates, L.P. (the "Limited Partnership"), represented by Frank Levy, whereby the Limited Partnership undertook to construct a mixed use building at 2005 Ingersoll Avenue with 47 residential units and 5,500 square feet of commercial space (the "Improvements") in compliance with the approved Conceptual Development Plan, in consideration of the advancement of a City loan in the amount of \$430,000 at the commencement of construction, and the payment of an Economic Development Grant in twenty semi-annual installments equal to a percentage of the annual tax increment generated by the residential component of the project; and,

WHEREAS, on August 24, 2015, by Roll Call No. 15-1440, the City Council approved the issuance of a Certificate of Completion acknowledging that the Limited Partnership has completed the Improvements in substantial compliance with the Development Agreement and the approved Conceptual Development Plan; and

WHEREAS, Frank Levy holds a controlling interest in the Limited Partnership as the Managing Member of Ingersoll Square III, GP, LLC, which is the General Partner of the Limited Partnership; and,

WHEREAS, Frank Levy and the limited partners of the Limited Partnership desire to sell the Ingersoll Square III project and have the following options to do so:

- The Limited Partnership could sell and convey the real estate to the perspective buyer, in which event the City loan would be extinguished because the proceeds of sale do not exceed the amount owed to creditors and investors having greater priority for repayment than the City.
- The general and limited partners of the Limited Partnership which owns the real estate could sell their interests in the Limited Partnership to the perspective buyer, in which event the City loan would remain in effect and continue to be secured by a subordinate mortgage upon the real estate, but the future repayment of the City loan would continue to be a subordinate obligation.

WHEREAS, the perspective buyer will only purchase the Ingersoll Square III project if the project is released from the lien of the subordinate mortgage securing the City loan; and,



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Frank Levy has requested that the City consent to treating the sale of the general and limited partners' interests in the Limited Partnership as being equivalent to a sale of the real estate owned by that Limited Partnership to an unrelated party for purposes of the Urban Renewal Development Agreement, to allow the sale to occur; and,

WHEREAS, the City's Office of Economic Development recommends that the City Council grant the request, as further described in the accompanying Council Communication.

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

- 1. Subject to the conditions set forth below, the City Council hereby approves the request by Frank Levy to treat the sale of the general and limited partners' interest in the Limited Partnership that owns the Ingersoll Square III project as being equivalent to a sale of the real estate owned by that Limited Partnership to an unrelated party, for purposes of the applying the Urban Renewal Development Agreement with Ingersoll Square Phase III Associates, L.P.
2. All contracts and conveyance documents for the sale of the general and limited partners' interest in the Limited Partnership shall be subject to review and approval by the City Legal Department to verify that the City receives the same share of the proceeds that the City would have received from the sale of the real estate within the Ingersoll Square Phase III project to an unrelated party.

MOVED by Hensley to adopt.

FORM APPROVED:

(Council Communication No. 17-566)

Roger K. Brown, Assistant City Attorney
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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

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

APPROVED

J. M. Franklin Council Mayor

Diane Rauh City Clerk