



Roll Call Number

18-0477

Agenda Item Number

42

Date March 19, 2018

RESOLUTION AUTHORIZING EXTENSION OF TIMELINES IN THE
URBAN RENEWAL AGREEMENT FOR SALE OF LAND FOR PRIVATE
REDEVELOPMENT WITH 5TH AND WALNUT PARKING, LLC,
REGARDING THE REDEVELOPMENT OF THE FIFTH AND WALNUT
PARKING GARAGE SITE

WHEREAS, on April 3, 2017, by Roll Call No. 17-0631, the City Council approved an *Urban Renewal Agreement for Sale of Land for Private Redevelopment* with 5th and Walnut Parking LLC (the "Developer"), represented by Justin Mandelbaum, whereby the Developer agreed to purchase the Fifth and Walnut Parking Garage (the "Property") and to redevelop that Property by the construction of the following "Improvements" as more specifically described in Council Communication No. 17-346:

- The construction of a parking garage fronting on 5th Street in the middle of the Property with approximately 564 parking spaces and a Stipulated Price of \$39,345,946 backstopped by the Parking Shortfall Loan from City;
- The construction of a movie theater or hotel (the "South Building") fronting on Court Avenue; and,
- The construction of a building (the "Residential Building") fronting on Walnut Street and having at least 200 residential dwellings. If the South Building is not a hotel the Residential Building shall also contain a hotel with at least 84 guest rooms; and,

WHEREAS, on July 17, 2017, by Roll Call No. 17-1202, the City Council approved a *First Amendment to Urban Renewal Agreement for Sale of Land for Private Redevelopment* with the Developer which amended the Agreement to:

- Allow 4 additional floors of office space to be added on top of the movie theater.
- Increase the size of the garage by 107 parking spaces, to approximately 671 parking spaces;
- Increase the Stipulated Price for the parking garage to \$44,326,475 (an increase of \$46,547 per additional parking space); and,
- Make further changes to the Agreement as discussed in Council Communication No. 17-532; and,

WHEREAS, on December 18, 2017, by Roll Call No. 17-2194, the City Council approved a *Second Amendment to Urban Renewal Agreement for Sale of Land for Private Redevelopment* with the Developer which further amended the Agreement to:

- Increase the size of the garage by 19 parking spaces, to approximately 690 parking spaces;
- Increase the Stipulated Price for the parking garage to \$45,210,868 (an increase of \$46,547 per additional parking space);
- Allow the Property to be divided into three building sites by a declaration of horizontal property regime instead of a plat of survey;

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- o Delay in the completion of the Parking Garage without changes to any other deadlines, from October 31, 2019 to February 28, 2020, to allow additional time to complete the construction of the larger garage; and,
- o Make further changes to the Agreement as discussed in Council Communication No. 17-542; and,

WHEREAS, the Developer is considering a further amendments to the project design to consolidate the south elevator bank and stairs in the Parking Garage with the elevator bank and stairs in the theater/office building which may decrease the construction and operating costs and further increase the number of parking spaces and the Stipulated Price backstopped by the Parking Shortfall Loan from City; and,

WHEREAS, due to the complexity of this project, the time needed to adequately review the condominium documents, the time needed for the Developer to finalize various design elements for building plan set submittals, and the time needed for building permit review prior to issuing permits, the Developer has requested and the City staff is recommending, that the City Council approve the following timeline extensions:

<u>Required Action:</u>	<u>Current Deadline:</u>	<u>Amended Deadline:</u>
Secondary Closing	03/31/2018	07/07/2018 (14-week extension)
Commence Garage	04/30/2018	07/23/2018 (12-week extension)
Complete Garage	02/28/2020	05/22/2020 (12-week extension)
Commence Theater	10/31/2019	no change
Complete Theater	10/31/2021	no change
Commence Tower	10/31/2019	no change
Complete Tower	09/01/2022	no change

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

1. The proposed amendments to the project timeline for the *Urban Renewal Agreement for Sale of Land for Private Redevelopment* with 5th and Walnut Parking LLC set forth above are hereby approved.
2. The City Manager is hereby authorized and directed to administer the said Agreement as previously amended and as further amended herein.
3. Any material change to the Conceptual Development Plan approved on December 18, 2017, by Roll Call No. 17-2195, shall require the approval of the City Council. No building permits shall be issued for any work on the Improvements which is not in substantial



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conformance with the approved Conceptual Development Plan, as the same may be amended from time-to-time with the City Council's approval.

(Council Communication No. 18- 123)

MOVED by Gatto to adopt.

FORM APPROVED:

By: Roger K. Brown
Roger K. Brown, Assistant City Attorney

*Council Member Mandelbaum abstains from voting based on an appearance of a conflict of interest.

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Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, 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.

Y. M. Franklin Mayor

Diane Rauh City Clerk