



Roll Call Number

18-0891

Agenda Item Number

48

Date May 21, 2018

RELEASE OF RESTRICTIVE COVENANTS LIMITING THE USE OF  
TAX ABATEMENT IN AIRPORT BUSINESS PARK,  
AIRPORT COMMERCE PARK SOUTH AND AIRPORT CROSSROADS

WHEREAS, the City is the beneficiary of the following restrictive covenants entered into by the parties identified below in consideration for economic incentives provided by the City for the development of Airport Business Park, Airport Commerce Park South, and Airport Crossroads (the "Affected Real Estate"):

- *Declaration of Covenants* by ABC Partners, L.P., filed May 15, 1997, in Book 7634, at Page 107, as amended by the *Supplemental Declaration of Covenants* filed on November 6, 2002, in Book 9434 at Page 688, affecting the real estate in Airport Business Park;
- *Supplemental Declaration of Covenants* by Airport Commerce Park, L.C., filed December 29 1998, in Book 8102 at Page 048, and *2nd Supplemental Declaration of Covenants* by Airport Commercial Park, L.C., filed July 30, 2001, in Book 8923 at Page 128, affecting the real estate in Airport Commerce Park South; and,
- *Declaration of Covenants* by Fleur Properties, L.C., filed March 7, 2005, in Book 10963 at Page 518, affecting the real estate in Airport Crossroads.

WHEREAS, each of the declarations of covenants identified above contains a covenant that limits the right of the owners of the Affected Real Estate, and the owners' successors and assigns, to seek a temporary exemption from taxation (a/k/a "tax abatement") on the value added by any future improvements to the affected real estate under Iowa Code Chapter 404 and urban revitalization plan adopted by the City for the affected real estate, to the 3-year 100% schedule; and,

WHEREAS, the City desires to encourage further development and redevelopment of the affected real estate by removing the limitation on seeking tax imposed by each of the declarations of covenants identified above, to allow the owners to seek tax abatement under any schedule allowed by the City-wide Urban Revitalization Plan; and,

WHEREAS, a *Partial Release of Declaration of Covenants* has been prepared and is available for inspection in the office of the City Clerk, which releases the Affected Real Estate from the limitations on tax abatement described above, while leaving all other limitations and restrictions in effect for the term of each declaration of covenants.

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

( continued )



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1. The Partial Release of Declaration of Covenants is hereby approved. The Mayor and City Clerk are hereby authorized and directed to execute such declaration on behalf of the City.

2. The City Clerk is hereby authorized and directed to cause the executed Partial Release of Declaration of Covenants to be recorded in the land records in the office of the Recorder of Polk County, Iowa.

( Council Communication No. 18- 256 )

MOVED by Gray to adopt.

FORM APPROVED:

By: Roger K. Brown, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
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

APPROVED

T. M. Franklin Council Mayor

Diane Rauh City Clerk