

★ Roll Call Number
18-1255

Agenda Item Number
29

Date July 23, 2018

**RESOLUTION APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT
WITH RE3, LLC FOR COMMERCIAL DEVELOPMENT AT 440 E. GRAND AVENUE**

WHEREAS, on March 8, 2018, by Roll Call No. 18-0360, the City Council received Communication No. 18-104 setting forth a developer-initiated proposal and preliminary terms of agreement with RE3, LLC (represented by Tim Rypma, Member)(“Developer”) for restoration and redevelopment of the existing 7,658-square foot building located at 440 E. Grand Avenue (“Property”) and located in the City’s East Village, with upper-floor residential use and ground floor small scale restaurant and commercial uses (“Project”), with total project cost estimated at \$2.2 million, and directing the City Manager to proceed with negotiation of a development agreement consistent with said proposal and preliminary terms; and

WHEREAS, on April 23, 2018, by Roll Call No. 18-0700, the City Council approved an Urban Renewal Development Agreement (the “Development Agreement”) with the Developer, and the Conceptual Development Plan associated therewith, providing that in consideration of the undertakings by Developer, the City shall pay economic development assistance for redevelopment of the Property in the form of an Economic Development Grant to be paid in 30 semi-annual installments, with each installment to be in a percentage established in the Development Agreement, starting at 100 percent in the first year and decreasing over the duration of the Agreement to 50 percent in the eleventh year, of the incremental taxes generated by redevelopment of the Property, excluding tax levy and taxes generated by the Downtown Des Moines Self-Supported Municipal Improvement District, in the estimated total amount of approximately \$423,000.00; and

WHEREAS, the Developer has requested that the deadline in the Development Agreement for the Developer to locate utilities within the Property underground should be extended to August 5, 2020, to allow for cost-savings to the Developer through coordination with MidAmerican Energy Company and the adjoining proposed development at 418 E. Grand Avenue; and

WHEREAS, the Developer and the Office of Economic Development have negotiated a First Amendment to the Development Agreement and First Amendment to Declaration of Covenants, in form on file with the City Clerk, allowing for the deferral of the completion of such undergrounding of utilities until August 5, 2020, subject to provision by Developer of a limited personal guarantee in the amount of \$36,557.00, which amount reflects the estimated cost of the undergrounding work.

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

1. The First Amendment to Urban Renewal Development Agreement between the City and RE3, LLC, and Exhibit D, “Limited Personal Guarantee for Undergrounding of Utilities,” attached thereto, both as on file in the office of the City Clerk, are 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.
2. The First Amendment to Declaration of Covenants, amending the Declaration of Covenants executed by Developer on April 16, 2018, and filed in the office of the Polk County Recorder on May

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14, 2018 in Book 16918, Page 346, is hereby approved, and the City Clerk is hereby authorized and directed to sign acceptance thereon on behalf of the City of Des Moines.

3. The City Manager or his designees are hereby authorized and directed to administer the Development Agreement, as amended, on behalf of the City, and to monitor compliance by the Developer with the terms and conditions of the Agreement, as 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 amended.

(Council Comm. No. 18-376)

MOVED BY Gatto TO ADOPT.

APPROVED AS TO FORM:

Glenna K. Frank
 Glenna K. Frank, Assistant City Attorney

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.

T. M. Franklin Mayor

Diane Rauh City Clerk