



Roll Call Number

18-1521

Agenda Item Number

35

Date September 10, 2018

APPROVAL OF SUBORDINATION AGREEMENT FOR DEVELOPMENT OF CITY-OWNED PROPERTY AT 418 EAST GRAND AVENUE

WHEREAS, on March 20, 2000, by Roll Call Nos. 00-788 and 00-789, the City Council of the City of Des Moines approved the Urban Renewal Plan for the Metro Center Urban Renewal Project, and such Plan has been amended 22 times (the urban renewal plan as so amended is herein referred to as the "Plan"), encompassing an irregularly shaped area that includes the downtown core and the areas surrounding the downtown core; and

WHEREAS, on March 19, 2018, by Roll Call No. 18-0478, the City Council authorized the City Manager to negotiate an urban renewal development agreement based on preliminary terms of agreement with Nelson Development 1, LLC, represented by Michael Nelson (President) ("Developer"), for sale of City-owned property located at the intersections of East 4th Street and East Grand Avenue, locally known as 418 E. Grand Avenue (Polk County Assessor District/Parcel Nos. 040/01839-002-001 and 040/01839-002)(collectively "Property") and located in the East Village, for development in two phases consisting of a three-level parking structure with approximately 402 total parking spaces in Phase 1, and a 5-story mixed use building in Phase 2 with approximately 36,000 square feet of commercial, retail and office space on the ground floor and second story, and 105 residential apartment units on the upper three stories; and

WHEREAS, on June 11, 2018, by Roll Call No. 18-1016, the City Council accepted the Developer's proposal and the proposed form of Urban Renewal Agreements for the Phase 1 and Phase 2 Improvements, and exhibits thereto including Special Warranty Deeds, mortgages, promissory notes and Declarations of Covenants, and a Parking Lease Agreement for City use of a portion of the Phase 1 Improvements (all collectively "Development Agreement") in the Metro Center Urban Renewal Area and set a date for a hearing on the Agreement, including the conveyance of the Property to Developer; and

WHEREAS, on July 23, 2018, by Roll Call No. 18-1295, the City Council held the public hearing on the Agreement and conveyance of the Property to the Developer and approved the proposed Development Agreement, the Conceptual Development Plan as Exhibit "C" to the Development Agreement, and the sale of the Property for the purchase price and terms as stated in said Roll Call; and

WHEREAS, on August 30, 2018, the Developer closed on the purchase of the Phase 1 Property, legally described as follows, from the City:

Phase 1 – Purchase Price: \$694,473.78

Legal Description (northwest portion of the Property at the intersection of Des Moines Street and E. 4th Street, and northern half of vacated east/west alley adjoining E. 5th Street):

A PART OF LOT 1, AND A PART OF THE VACATED ALLEY LYING SOUTH OF AND ADJACENT TO SAID LOT 1, BLOCK 10, FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST OF CORNER OF SAID LOT 1; THENCE SOUTH 74°47'22" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF DES MOINES STREET, 179.67 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°13'14" EAST, 152.33 FEET; THENCE SOUTH 74°49'57" WEST, 21.75 FEET; THENCE NORTH 15°01'35" WEST, 10.00 FEET; THENCE SOUTH 74°49'57" WEST, 138.20 FEET TO THE EAST RIGHT-OF-WAY LINE OF E 4TH STREET; THENCE NORTH 15°17'24" WEST ALONG SAID EAST RIGHT-OF-WAY, 142.21 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DES MOINES STREET; THENCE NORTH 74°47'22" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 160.09 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.53 ACRES (22,981 S.F.).



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AND

A PART OF THE VACATED ALLEY LYING SOUTH OF AND ADJACENT TO LOT 1, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST OF CORNER OF LOT 1 OF SAID BLOCK 10, EAST FORT DES MOINES; THENCE SOUTH 15°20'33" EAST ALONG THE WEST RIGHT-OF-WAY OF E 5TH STREET, 9.06 FEET; THENCE SOUTH 74°48'52" WEST, 180.01 FEET; THENCE NORTH 15°13'14" WEST, 9.13 FEET TO THE NORTH LINE OF SAID VACATED ALLEY; THENCE NORTH 74°50'22" EAST ALONG SAID NORTH LINE, 179.99 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.04 ACRES (1,637 S.F.); and

WHEREAS, the Developer and its senior lender, Lincoln Savings Bank, have requested that the City subordinate the Promissory Note and Forgivable Mortgage, recorded in Book 17059, Page 610 in the office of the Polk County Recorder, for the Phase 1 Property to the mortgage held by Lincoln Savings Bank, pursuant to the Mortgage and Debt Subordination Agreement in form on file with the City Clerk.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the Mortgage and Debt Subordination Agreement by and between the City of Des Moines, Lincoln Savings Bank, and 555 E Fourth Parking, LLC, is hereby approved; the Mayor Pro Tem is authorized and directed to sign the Agreement and the City Clerk is directed to attest to his signature; and the Office of Economic Development is directed to administer said Agreement.

MOVED BY Gatto to adopt.

FORM APPROVED:

Glenna K. Frank, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BOESEN, COLEMAN, GATTO, GRAY, MANDELBAUM, WESTERGAARD, and TOTAL (7). Includes MOTION CARRIED and APPROVED labels.

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.

J. M. Frankh Cownie Mayor

Diane Rauh City Clerk