



Roll Call Number

18-1522

Agenda Item Number

35A

Date September 10, 2018

**APPROVAL OF CORRECTIVE DEVELOPMENT AGREEMENT DUE TO
SCRIVENER'S ERROR 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 040/01839-002-002)(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 below, from the City with the Development Agreement being recorded on August 30, 2018 in the office of the Polk County Recorder as follows: Special Warranty Deed, Book 17059, Page 570; Urban Renewal Agreement, Book 17059, Page 581; Forgivable Mortgage, Book 17059, Page 610; Declaration of Covenants, Book 17059, Page 620; and Parking Lease Agreement, Book 17059, Page 628; and

WHEREAS, upon recording, a scrivener's error was discovered in the legal description of the Phase 1 Property which error must be corrected in all of the afore-listed recorded documents; and

WHEREAS, the corrected legal description of the Phase 1 Property is as follows:

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, EAST FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:



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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.).

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, all other provisions and terms of the Development Agreement shall remain the same as approved by the City Council on July 23, 2018 by Roll Call No. 18-1295.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the issuance, execution and recording of a corrective version of the Development Agreement to correct the scrivener's error in the legal description is hereby approved; the Legal Department is authorized and directed to prepare corrective documents; the Mayor is authorized and directed to sign said documents and the City Clerk to attest to his signature; the Real Estate Division is authorized to record said corrective documents with the office of the Polk County Recorder; and the Office of Economic Development is directed to administer said Development 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 yeas).

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. Frankin, Mayor

Diane Rauh, City Clerk