



Roll Call Number

21-0154

Agenda Item Number

63

Date January 25, 2021

**RESOLUTION CLOSING HEARING, SELECTING
DEVELOPER, APPROVING URBAN RENEWAL AGREEMENT
FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT,
AND FOR DEVELOPMENT OF LAND OWNED AND TO BE
OWNED BY DEVELOPER**

WHEREAS, the City of Des Moines owns approximately six blocks of real estate and right of way located in the Market District of the East Village (the “City-Owned Property”) more specifically described in the attachment titled Legal Description of City-Owned Property; and,

WHEREAS, the City Council adopted a master plan for the Market District of the East Village on November 4, 2019 in Roll Call Number 19-1761 (the “Master Plan”); and,

WHEREAS, on December 16, 2019, in Roll Call number 19-2061, the City received and filed a proposal from an affiliate of The District Developer, LLC (the “Developer”) proposing developing a large area in the Market District consisting of the City-Owned Property in conjunction with other property owned by, or to be owned by, the Developer (collectively, the “Property”) as a high-quality mixed-use development that could include residential, office, hotel, retail and entertainment venues consistent with the master plan for the Market District, including a proposal to purchase the City-Owned Property and for development incentives and further directed the City Manager to prepare an urban renewal development agreement that includes purchasing and re-developing the City-Owned Property; and,

WHEREAS, in Roll Call number 19-2061, the City Council further directed the City Manager to entertain competing proposals for sale of the City-Owned Property, propose a final agreement and an approved process for the sale of the City-Owned Property, thus notifying any other interested developers in the potential sale of the City-Owned Property; and,

WHEREAS, on June 8, 2020, in Roll Call number 20-0914, The City Council approved preliminary terms of a development agreement that proposed to develop an 11-block area of property within the Market District that would include a mix of residential, office, hotel, retail and entertainment venues and included the sale of the City-Owned Property and further directed the City Manager or his designee to negotiate final terms of agreement for future consideration by the City Council; and,

WHEREAS, in Roll Call number 20-0914, the City Council further directed the City Manager or his designee to submit to the Council a reasonable competitive bidding process in compliance with Iowa Code section 403.8 for the sale and redevelopment of the City-Owned Property when submitting a proposed final agreement; and,



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WHEREAS, in Roll Call number 20-0914, the City Council again notified potentially interested parties “that they may contact the City Manager to express any interest in the acquisition of the City-owned real estate prior to commencement of the formal competitive bidding process and consideration of approval of a final agreement”; and,

WHEREAS, the City's Office of Economic Development and the Developer have negotiated final terms of a proposed Urban Renewal Agreement for Sale of Land for Private Redevelopment (the "Proposed Agreement") that includes the sale of the City-Owned Property whereby:

- The Developer will purchase the City-Owned Property for market value as adjusted over the time period of the Proposed Agreement as specified in the Proposed Agreement, with the exception of rights of way presently owned by the City that will be used for private streets and sidewalks;
- The City will transfer the rights of way presently owned by the City that will be used for private streets and sidewalks in exchange for a permanent easement grant of access to the public;
- The Developer additionally agrees to redevelop the Property by replatting the Property, demolishing existing buildings, preparation of the Property for development, construction of required public and private infrastructure and the development of or sale of individual development blocks of the Property for the construction of multiple commercial and residential buildings;
- The Developer additionally agrees to restrict construction of development blocks to certain construction standards, to provisions requiring affordable housing and parking availability to the public in the area, and to waive tax abatement;
- The proposal is subject to the City providing economic development incentives including an economic development grant for each development block whereby the City returns 93% of the tax increment generated by that development block for 20 years and contribution of real estate upon which the Developer is required to construct private streets and sidewalks that will be subject to public access;

all as more specifically described in the Proposed Agreement which is on file in the office of the City Clerk; and,

WHEREAS, on December 21, 2000, in Roll Call Number 20-2158, the City Council accepted the Agreement and authorized publication of notice of intent to enter into the Agreement at a public hearing and set a competitive bidding process in compliance with Iowa Code section 403.8 for the sale and redevelopment of the City-Owned Property that required any competing bids be submitted by January 22, 2021 and if none were submitted a hearing be set for January 24, 2021 to review the Proposed Agreement and select a developer; and,



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WHEREAS, notice of the public hearing was published in the Des Moines Register on December 22, 2020; and,

WHEREAS, the City received no competing proposals for the purchase and redevelopment of the Property.

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

1. Upon due consideration of the facts and statements presented, the hearing is hereby closed.

2. The City Council hereby makes the following findings regarding the proposed sale and conveyance of the Property pursuant to the Agreement:

a) The Developer's obligations under the Agreement to complete the planned improvements to the City-Owned Property and property owned and to be owned by the Developer furthers the objectives of the Metro Center Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents and maintain taxable values within the Metro Center Urban Renewal Area, to increase employment opportunities, to encourage the development of a range of housing options in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area, and to encourage intensive and coordinated commercial and residential mixed-use development.

b) The economic development incentives for the planned improvements to the Property shall be provided by the City to Developer pursuant to the Iowa Urban Renewal Law and Chapter 15A of the Code of Iowa and Developer's obligations under the Agreement to construct such improvements will generate the following public gains and benefits:

(i) it will advance the improvement and redevelopment of the Market District in accordance with the Urban Renewal Plan; (ii) it will advance the goal of providing a range of housing options in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area; (iii) it will encourage further private investment and will attract and retain residents and businesses in the Market District area; and, (iv) it will



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further the City's efforts to create and retain job opportunities within the Metro Center Urban Renewal Area which might otherwise be lost.

- c) The construction of the planned improvements to the Property is a speculative venture and the construction and resulting employment, housing and redevelopment opportunities would not occur without the economic incentives and other covenants to be provided by the City pursuant to the Agreement.
- d) The fair market value of the City-Owned Property subject to the terms, conditions, restrictions, requirements, limitations and covenants placed on the use of the City-Owned Property pursuant to the terms of the Agreement, is as shown in sections 2.1(F)(f) and 3.2 of the Agreement.
- e) The redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the Metro Center Urban Renewal Project has been undertaken, and warrant the provision of the economic assistance set forth in the Agreement.

3. The Urban Renewal Agreement for Sale of Land for Private Redevelopment and for Development Of Land Owned and to be Owned by Developer between the City and The District Developer, LLC, (the "Agreement") is hereby approved.

4. The Mayor is hereby authorized and directed to execute the Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the Agreement.

5. Upon request by the City Legal Department and at the times provided for in the Agreement, the Mayor is hereby further authorized and directed to execute Quitclaim Deeds on behalf of the City for conveyance of the City-Owned Property to the Developer, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the Deed. The City Clerk is further directed to forward the signed Deed to the Legal Department for release to the Developer at Closing as provided in the Agreement.

6. The Economic Development Director or the Directors designee is directed to submit a copy of the fully executed Development Agreement to the Finance Department to enable the Finance Director to make any appropriate disclosure filings in accordance with the City's adopted revised Disclosure Policy.

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7. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the Initial and Deferred Economic Development Grants pursuant to Article 7 of the Agreement.

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

(Council Communication No. 21- 047)

MOVED by Gatto to adopt.

FORM APPROVED:

/s/ Thomas G. Fisher Jr.

Thomas G. Fisher Jr.
Assistant City Attorney

Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

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

CERTIFICATE
I, P. Kay Cmelik, 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. Franklin Cownie
Mayor

P. Kay Cmelik
City Clerk