



Roll Call Number

21-1756

Agenda Item Number

39 A

Date November 15, 2021

APPROVAL OF THIRD AMENDMENT AND RESTATED URBAN RENEWAL
DEVELOPMENT AGREEMENT
WITH THE GREATER DES MOINES BOTANICAL GARDEN

WHEREAS, by Roll Call Nos. 00-0788 and 00-0789 of March 20, 2000, the City Council adopted an Urban Renewal Plan for the Metro Center Urban Renewal Project to stimulate economic revitalization of the downtown area and to contribute to the public health, safety and welfare and the Urban Renewal Plan as amended expanded the Urban Renewal Area to include the Des Moines River west bank and property east of the Des Moines River south of University Avenue; and

WHEREAS, by Roll Call No. 11-0825 dated May 9, 2011, the City Council approved an Urban Renewal Development Agreement with the Greater Des Moines Botanical Garden (“Botanical Garden”) to provide an economic development grant in the amount of \$2,000,000 to support the enhanced operation, management and maintenance of the Botanical Center and by Roll Call No. 13-1206 of July 29, 2013 approved a First Amendment thereto and by Roll Call No. 14-1939 of December 22, 2014 approved a Second Amendment thereto for the provision of an additional economic development grant in the amount of \$150,000; and

WHEREAS, by Roll Call No. 11-0822 dated May 9, 2011, the City Council approved a Lease and Operation, Management and Maintenance Agreement with the Botanical Garden as has been amended by a Third Amendment approved as this date to incorporate a Master Plan Refresh reflecting expansion improvements for the Botanical Center and all adjacent grounds and accessory structures including the development of a seven-acre garden expansion; and,

WHEREAS, in accordance with the terms of the amended Lease, the Botanical Garden is responsible for the timely funding and construction of substantial additional capital improvements that have commenced, including replacement of existing building systems, renovations, other replacements and enhancements to building and structural components, and the timely construction and completion of expanded gardens and buildings for the Botanical Center, and is responsible for the enhanced operation, management and maintenance of the Botanical Center to serve, in part, as a positive asset to business development in the Metro Center Urban Renewal Project Area, downtown, and the City; and,

WHEREAS, in accordance with the terms of the Urban Renewal Development Agreement, the City has paid to the Botanical Garden installments on the economic development grant totaling \$1,600,000 and paid to the Botanical Garden the additional economic development grant of \$150,000, and in recognition of the obligations assumed by the Botanical Garden under the Third Amendment to the Lease to timely invest in and construct substantial additional capital improvements, including replacement of existing building systems, renovations, other



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replacements and enhancements to building and structural components, and the timely construction and completion of expanded gardens and buildings for the Botanical Center, the Third Amendment and Restated Development Agreement will extend and increase the economic development grant in future installments totaling \$2,900,000 to support the enhanced operation, management and maintenance of the Botanical Center and to place the Botanical Garden on solid foundation for continuous long-term operation of the Botanical Center as a first-class amenity with no further grant support from the City after payment of the last and final economic development grant installment.

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

1. The City Council hereby makes the following findings in support of the Third Amendment and Restated Urban Renewal Development Agreement:

a. The economic development assistance and the obligations assumed by the Botanical Garden the Third Amendment and Restated Urban Renewal Development Agreement will continue to generate the following public gains and benefits: (i) will initiate the further improvement and expansion of the Botanical Center in accordance with the Urban Renewal Plan; (ii) will continue to encourage further private investment and will attract and retain other businesses in the Metro Center Urban Renewal Project Area; (iii) will continue to encourage the creation and retention of job opportunities within the Metro Center Urban Renewal Project Area which might otherwise be lost; (iv) will continue to help to maintain and expand taxable values in the Metro Center Urban Renewal Project Area; and, (v) will have a continued and greater positive economic impact on the City by enhancing the quality of life within the City and by contributing to the City's efforts to retain and attract a skilled workforce and promote economic growth; and,

b. The substantial additional capital improvements, including replacement of existing building systems, renovations, other replacements and enhancements to building and structural components, and the timely construction and completion of expanded gardens and buildings for the Botanical Center, and enhanced operation, management and maintenance of the Botanical Center pursuant to the amended Lease will further the objectives of the Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City's residents and maintain taxable values within the Metro Center Urban Renewal Project Area, to establish conditions which will attract new investments and prevent recurrence of blight and blighting conditions, to provide for orderly expansion of downtown Des Moines as a retail, financial, business, and cultural center of the metropolitan area, to encourage and support development which will enhance and make the best possible use of riverfront, cultural, and other public facilities, resources and investments, to provide facilities that will meet the recreation, educational, and cultural needs of persons who work and live in and near the Metro Center Urban Renewal Project Area, to provide facilities that will enhance the use and enjoyment of the Des



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Moines riverfront and City parks by persons who work and live in the area as well as City residents and visitors to the downtown, and to support the maintenance and rehabilitation of sound existing structures and the preservation of properties of architectural merit; and,

c. The provision of the extended and increased economic development assistance from the City is necessary to enable the substantial expansion, improvement and enhanced operation, management, and maintenance of the Botanical Center in accordance with the terms of the amended Lease and the Third Amendment and Restated Urban Renewal Development Agreement and such assistance will generate public gains and benefits for urban renewal and economic development which gains and benefits are warranted in comparison with the amount of such assistance; and,

d. The substantial expansion, improvement, and enhanced operation, management and maintenance to the Botanical Center pursuant to the amended Lease and Third Amendment and Restated Urban Renewal Development Agreement, the intangible interest the City will retain through the actions of the Developer in furtherance of the Urban Renewal Plan and the fulfillment generally of the Third Amendment and Restated Urban Renewal Development Agreement, are in the vital and best interests of the 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 Third Amendment and Restated Urban Renewal Development Agreement.

2. The Third Amendment and Restated Urban Renewal Development Agreement with the Botanical Garden which is on file in the Office of the City Clerk is hereby approved and the Mayor is hereby authorized and directed to sign the Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to the Mayor's signature and affix the seal of the City.

3. Upon satisfaction of the conditions for payment of future installments of the \$2,900,000 economic development grant pursuant to Article 1 of the of the Third Amendment and Restated Urban Renewal Development Agreement and confirmation of same by the City Manager and the Legal Department, the Finance Department is hereby authorized and directed to advance the installments of the grant to the Botanical Garden in accordance with the terms of the Agreement.



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4. The City Manager or his designees are hereby authorized and directed to administer the Third Amendment and Restated Urban Renewal Development Agreement on behalf of the City, and to monitor compliance by the Botanical Garden with the terms and conditions of the Agreement.

Moved by Westergaard to adopt.

APPROVED AS TO FORM:

/s/ Lawrence R. McDowell
Lawrence R. McDowell
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

J. M. Franklin Cownie
Mayor

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.

P. Kay Cmelik

City Clerk