



Date December 06, 2021

RESOLUTION APPROVING THIRD AMENDMENT OF AGREEMENT BETWEEN CITY OF DES MOINES AND BEN SPELLMAN FOR PROPERTY LOCATED AT 1124 13TH STREET AND 1311 LAUREL STREET

WHEREAS, Iowa Code Section 446.19A permits cities to acquire tax sale certificates for abandoned property assessed as residential property or as commercial multifamily property or vacant residential lots at a tax sale without paying the taxes then due, to obtain the assignment of outstanding tax sale certificates by payment to the certificate holder the amount then due to redeem the certificate, and to further assign said certificates, all for the purpose of encouraging the acquisition and rehabilitation of abandoned dwellings and lots; and

WHEREAS, on February 5, 2018, by Roll Call No. 18-204, the City Council approved request to Polk County Board of Supervisors to assign tax sale certificates of purchase to the City, authorization for execution of Polk County Agreements, approval of City acquisition of properties through tax deed, authorization to request release of property taxes and special assessments, and release of all City liens and special assessments in order to encourage housing redevelopment at real property locally known as 1124 13th Street and 1311 Laurel Street (collectively "property"); and

WHEREAS, on January 14, 2019, by Roll Call 19-0076, the City Council approved sale and conveyance of said property to Indigo Dawn, LLC, which sale was for redevelopment of housing subject to the terms and conditions included in the Acquisition Agreement and Offer to Purchase between the parties; and

WHEREAS, on December 5, 2019, Indigo Dawn, LLC assigned its interest and obligations in the Acquisition Agreement to Astilbe Morning, LLC, ("Developer"), following approval of assignment by the City Community Development Director as authorized by the Acquisition Agreement; and

WHEREAS, on December 16, 2019, by Roll Call 19-2027, the City Council approved the First Amendment to Acquisition Agreement between the City of Des Moines and Astilbe Morning, LLC, to allow extension of the Agreement until December 30, 2020; and

WHEREAS, on November 9, 2020, by Roll Call 20-1781, the City Council approved the Second Amendment to Acquisition Agreement between the City of Des Moines and Astilbe Morning, LLC, to allow extension of the Agreement until December 30, 2021; and

WHEREAS, on July 01, 2021, Astilbe Morning, LLC assigned its interest and obligations in the Acquisition Agreement to Ben Spellman, ("Developer"), following approval of assignment by the City Neighborhood Services Director as authorized by the Acquisition Agreement; and

WHEREAS, the Developer has started rehabilitation process; and

WHEREAS, Ben Spellman has requested a Third amendment of the Acquisition Agreement extending the agreement to June 30, 2022 to allow completion of said redevelopment; and



Roll Call Number

21-1831

Agenda Item Number

41

Date December 06, 2021

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the Third Amendment to Acquisition Agreement between the City of Des Moines and Ben Spellman, to allow extension of the Agreement until June 30, 2022, is hereby approved; the Mayor is authorized and directed to sign the Amendment on behalf of the City; and the City Clerk is authorized and directed to attest his signature.

(Council Communication No. 21-533)

MOVED BY Gatto TO ADOPT.

APPROVED AS TO FORM:

Judy K. Parks-Kruse, Assistant City Attorney

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.

[Signature of P. Kay Cmelik]

City Clerk

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

[Signature of Mayor] Mayor

**THIRD AMENDMENT TO
AGREEMENT BETWEEN CITY OF DES MOINES AND BEN SPELLMAN
FOR ACQUISITION AND REHABILITATION/REDEVELOPMENT OF PROPERTIES
LOCATED AT 1311 LAUREL AND 1124 13TH STREETS, DES MOINES, IOWA,
FOR EXTENSION OF TIME FOR COMPLETION**

WHEREAS, on January 14, 2019, by Roll Call 19-0076, the City Council approved the sale and conveyance of real property locally known as 1124 13th Street and 1311 Laurel Street (collectively “property” or “properties”) to Indigo Dawn, L.L.C., which sale was for redevelopment of housing subject to the terms and conditions included in the Acquisition and Rehabilitation Agreement and Offer to Purchase between the parties; and

WHEREAS, on December 5, 2019, Indigo Dawn, L.L.C. assigned its interest and obligations in the Acquisition and Rehabilitation Agreement to Astilbe Morning, L.L.C., following approval of assignment by the City Community Development Director as authorized by the Acquisition and Rehabilitation Agreement; and

WHEREAS, on December 16, 2019, by Roll Call 19-2027, the City Council approved the First Amendment to Acquisition and Rehabilitation Agreement between the City of Des Moines and Astilbe Morning, LLC, to allow extension of the Agreement until December 30, 2020; and

WHEREAS, on November 9, 2020, by Roll Call 20-1781, the City Council approved the Second Amendment of Agreement between the City of Des Moines and Astilbe Morning, LLC, to allow extension of the Agreement until December 31, 2021; and

WHEREAS, on July 01, 2021, Astilbe Morning, L.L.C. assigned its interest and obligations in the Acquisition and Rehabilitation Agreement to Ben Spellman, following approval of assignment by the City Neighborhood Services Director as authorized by the Acquisition and Rehabilitation Agreement; and

WHEREAS, Ben Spellman (“Developer”) has requested the Third amendment of the Acquisition Agreement extending the agreement to June 30, 2022 to allow completion of redevelopment of single family home on the site; and


WHEREAS City and Developer have negotiated the following amendments to said Acquisition Agreement,

NOW THEREFORE, it is mutually agreed by the City and Developer as follows:

1. That the Acquisition Agreement is hereby amended in accordance with the terms set forth in this Amendment.
2. All other terms, provisions, and conditions originally set forth in the Acquisition Agreement remain effective and binding upon the City and Developer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 6th day of December, 2021.


"DEVELOPER"
BEN SPELLMAN


By: Ben Spellman

"CITY"
CITY OF DES MOINES, IOWA


By: T.M. Franklin Cownie, Mayor

FORM APPROVED:


Judy K. Parks-Kruse, Assistant City Attorney

ATTEST:


P. Kay Cmelik, City Clerk

**AMENDMENT AND
ASSIGNMENT OF DEVELOPMENT AGREEMENT**

KNOW ALL MEN BY THESE PRESENTS:

That Astilbe Morning, LLC (the "Assignor"), an Iowa limited liability company organized and existing under the laws of the State of Iowa, of 800 19th Street, Des Moines, Iowa, does hereby transfer and assign unto Ben Spellman (the "Assignee"), of 1530 47th Street, Des Moines, Iowa, all of its rights, title and interest in and to a certain Development Agreement with the City of Des Moines dated January 14, 2019, and approved by the Des Moines City Council by Roll Call No. 19-0076, which Agreement covers the real estate situated in Polk County, Iowa, being more particularly described as follows, to-wit:

THE WEST 9 FEET OF LOT 3 AND THE EAST HALF (1/2) OF
LOT 4, SAUCERMAN AND ENGLISH'S ADDITION, AN
OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING
A PART OF THE CITY OF DES MOINES, POLK COUNTY,
IOWA.

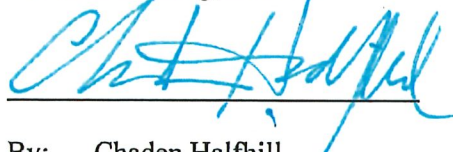
Known locally as 1311 Laurel Street, Des Moines, Iowa 50314; and

THE NORTH 78 FEET OF LOTS 11 AND 12 OF THE
SUBDIVISION OF LOTS 8 AND 9 OF THE OFFICIAL PLAT
OF THE NORTHWEST FRACTIONAL QUARTER (1/4) OF
THE NORTHWEST FRACTIONAL QUARTER (1/4) OF
SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF
THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A
PART OF THE CITY OF DES MOINES, POLK COUNTY,
IOWA.

Known locally as 1124 13th Street, Des Moines, Iowa 50314.

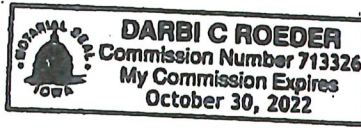
Dated this 01 of July 2021.

Astilbe Morning, L.L.C.



By: Chaden Halfhill
Its: Managing Member

STATE OF IOWA)
) SS:
COUNTY OF POLK)



On this 01 day of July, 2021, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Chaden Halfhill who is the Managing Member of Astilbe Morning, LLC.

Darbi C. Roeder

Notary Public in and for the State of Iowa

ACCEPTANCE OF ASSIGNMENT AND AMENDMENT

KNOW ALL MEN BY THESE PRESENTS:

That Ben Spellman hereby accepts all the rights and obligations under this Assignment and approves and ratifies the amendment stated herein above.

Dated this 01 of July 2021.

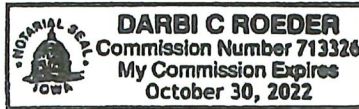
Ben Spellman

[Signature]

By: Ben Spellman

Its: Developer

STATE OF IOWA)
) SS:
COUNTY OF POLK)



On this 01 day of July 2021, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ~~Chaden Halfhill~~ Ben Spellman. cel

Darbi C. Roeder

Notary Public in and for the State of Iowa

ACCEPTANCE OF ASSIGNMENT AND AMENDMENT

KNOW ALL MEN BY THESE PRESENTS:

That the City of Des Moines hereby accepts Ben Spellman as Assignee of the above referenced Agreement, and hereby approves the amendment to said documents as stated herein above.

Dated this 24th of November, 2021.

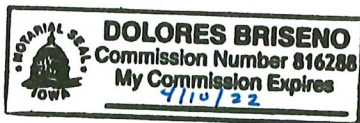
CITY OF DES MOINES, IOWA




Chris Johansen, Director
Neighborhood Services Department
of the City of Des Moines, Iowa
As authorized by the Des Moines City
Council pursuant to Roll Call No. 19-0076
on January 14, 2019

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this 24th day of November, 2021, before me, the undersigned, a Notary Public, personally appeared Chris Johansen, to me personally known, who, being by me duly sworn, did state that he is the Community Development Director for the City of Des Moines, Iowa; and that the instrument was signed on behalf of the municipal corporation, by authority of its City Council, as contained in the Roll Call No. 19-0076 passed on January 14, 2019 by the City Council, and that he acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.




Notary Public in and for the State of Iowa