

Date..... March 20, 2006

RESOLUTION APPROVING SECOND AMENDMENT TO DEVELOPMENT AGREEMENT AND AUTHORIZING CLOSING ON SALE OF CITY-OWNED PROPERTY TO COURT AVENUE PARTNERS II, L.P. (Vacant parcel west and south of the Spaghetti Works Building)

WHEREAS, on November 8, 2004 by Roll Call 04-2446, the City Council approved an Urban Renewal Development Agreement with Court Avenue Partners II, L.P. (the "Developer"), whereby the City has agreed to sell the vacant City-owned parcel west and south of the Spaghetti Works Building (the "Property") to Developer and Developer has agreed to construct improvements on the Property, including a building at the Southeast corner of Court Avenue and 4th Street to contain 8,500 square feet of commercial space and common amenities for the apartments on the first floor and 52 units of apartments on the second through fifth floors, forty residential condominium units for sale along the east side of 4th Street, 67 underground parking spaces and 50 surface parking spaces and the City has undertaken to provide certain financial incentives and to provide for the use of up to 25 off-street parking spaces within the area for use exclusively by the tenants residing upon the Property (collectively the "Improvements"); and,

WHEREAS, on November 7, 2005, by Roll Call No. 05-2679, the City Council approved the First Amendment to Urban Renewal Development Agreement to redirect payment of a portion of the economic development grant to Court Avenue Investors, Inc., ("CAI") , and to assign to CAI primary responsibility for any repayment due the City from excess income and net proceeds of sale or refinancing; and

WHEREAS, the Developer has requested a second amendment to the agreement to allow the Developer to close on the purchase of the City's property by March 31, 2006, prior to City approval of a Conceptual Development Plan for the planned Improvements; and,

WHEREAS, the proposed second amendment does not change the amount or timing of the City's payments on the economic development grant; does not change the amount, timing or security for repayment of the grant to the City; and, the City will retain a right of reversion in the property in the event construction of the Improvements is not timely commenced pursuant to the Agreement; NOW THEREFORE,

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

- 1. The proposed Second Amendment to Development Agreement between the City and Court Avenue Partners II, L.P., and Court Avenue Investors, Inc., is hereby approved.
2. The Mayor is authorized and directed to sign the said Second Amendment on behalf of the City of Des Moines, and the City Clerk is authorized and directed to attest to the Mayor's signature on such document.

(continued)

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3. Mayor is hereby authorized and directed to sign the Special Warranty Deed for the conveyance of the Property described above, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such document.

4. The City Clerk is further directed to forward the Special Warranty Deed and a certified copy of the Urban Renewal Development Agreement and the First and Second Amendments thereto described above to the Real Estate Division for recording at closing on such sale pursuant to the agreement.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

C:\Rog\Eco Dev\Court Ave\Court Ave 3\Dev Agr\2nd Amend\RC approve.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

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.

MOTION CARRIED

APPROVED

.....Mayor

_____ City Clerk