

Date January 13, 2014

RESOLUTION MASTER SUBORDINATION AGREEMENT AND ESTOPPEL
CERTIFICATE FOR THE MIXED USE PROJECT AT 2005 INGERSOLL AVENUE BY
INGERSOLL SQUARE PHASE III ASSOCIATES, L.P., REPRESENTED BY FRANK
LEVY (OFFICER), ESTABLISHING THE PRIORITY OF THE CITY'S URBAN
RENEWAL AND HOME MORTGAGES AND COVENANTS

WHEREAS, on November 18, 2013, by Roll Call No. 13-1809, the City Council approved a Urban Renewal Development Agreement and a HOME Agreement with Ingersoll Square Phase III Associates, L.P., represented by Frank Levy, Officer, whereby Ingersoll Square agreed to construct a four story mixed-use building at 2005 Ingersoll Avenue containing 5,500 square feet of retail space on the first floor, including 4,000 square feet to be occupied by Veridian Credit Union, 47 residential units on the upper floors including 3 that are to be affordable, and surface parking, in consideration of an undertaking by the City to provide the following financial incentives:

- An Economic Development Grant to be paid in installments for a term of 10 years commencing after expiration of the 10-year tax abatement, with the installments in each year to be in an amount equal to 58% of the TIF generated in that year by the residential component of the Improvements;
- A Supplemental Grant to be paid in advance of construction in the amount of \$430,000, with such grant subject to repayment upon any default by Ingersoll Square under the Agreement, and also subject to possible repayment from available project cash flows as described in the Agreement; and,
- A HOME Agreement loan of \$350,000.

WHEREAS, the City Council's approval of the two agreements was "subject to such changes required for Ingersoll Square to finalize the project financing and determined by the City Legal Department to have no material detrimental impact upon the City's interests"; and,

WHEREAS, the Supplemental Grant was recharacterized as a Supplemental Loan subject to repayment from available cash flows from the operation, refinancing and sale of the property, upon terms at least as favorable to the City as the language originally approved by the City Council; and,

WHEREAS, the parties have negotiated a *Master Subordination Agreement and Estoppel Certificate* which establishes the following order of priority amount the various liens and encumbrances upon the property:

- 1) The HOME Funded Restrictive Covenant (requiring that 3 units remain rent restricted) shall have a first and senior priority;
- 2) The Veridian Credit Union loan and loan documents shall have a second priority;

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- 3) The Bankers Trust Loan and loan documents shall have third priority;
- 4) The HOME loan and loan documents (exclusive of the HOME Funded Restrictive Covenant) shall have fourth priority;
- 5) The City's urban renewal loan documents shall have fifth priority; and,


WHEREAS, the City Manager recommends that the City Council approve the *Master Subordination Agreement and Estoppel Certificate* to permit the project to obtain funding.

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

- 1. The *Master Subordination Agreement and Estoppel Certificate* described above is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute such document on behalf of the City.
- 2. The City Clerk is hereby directed to forward the *Master Subordination Agreement and Estoppel Certificate* to the Legal Department.

MOVED by _____ to adopt.

FORM APPROVED:



Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
VOSS				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

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.

_____ City Clerk