

Date December 21, 2020

**RESOLUTION APPROVING URBAN RENEWAL DEVELOPMENT AGREEMENT WITH 13<sup>TH</sup> & MULBERRY, LLC AND 13<sup>TH</sup> & MULBERRY MULTIFAMILY, LLC (JOSH ABERSON, BYRON SCHAFERSMAN AND TIM RYPMA), AND CONCEPTUAL DEVELOPMENT PLAN, FOR THE HISTORIC RENOVATION OF EXISTING ONE-STORY COMMERCIAL BUILDING AT 213 13<sup>TH</sup> STREET AND CONSTRUCTION OF FIVE-STORY MIXED-USE BUILDING ON ADJACENT LOT NORTHWEST OF 13<sup>TH</sup> AND MULBERRY**

**WHEREAS**, 13<sup>th</sup> & Mulberry, LLC (“Phase 1 Developer”) and 13<sup>th</sup> & Mulberry Multifamily, LLC (“Phase 2 Developer”, and with Phase 1 Developer, “Developer”), represented by Josh Aberson of Green Acre Real Estate, Byron Schafersman of Lloyd Companies, and Tim Rypma of Rypma Properties, Owners and Developers, proposes to undertake a historic renovation of the existing one-story, approximately 15,000 square-foot building located at 213 13<sup>th</sup> Street for commercial office uses with approximately 30 underground parking spaces in the project’s first phase, and construction of a new mixed-use building located on the adjacent lot to the west of 13<sup>th</sup> Street with a minimum of five stories, 80 apartment units, and 3,000 square feet of commercial retail space in the project’s second phase (collectively “Improvements”) in the Metro Center Urban Renewal Area, at an estimated total project cost of \$22,700,000.00, subject to receipt of the financial assistance identified below and State and Federal Historic Tax Credits being sought by the Developer; and

**WHEREAS**, the existing Iowa Ford Tractor Company building was originally constructed in 1949, and the Developer is working with the State Historic Preservation Office (SHPO) on design requirements and intends to undertake the renovation consistent with the Secretary of the Interior’s Standards and Guidelines for Historic Rehabilitation; and

**WHEREAS**, pursuant to Roll Call No. 20-1664, approved on October 19, 2020, the City Council directed the City Manager to proceed with negotiation of a Development Agreement with the Developer for the project; and

**WHEREAS**, the City’s Office of Economic Development has negotiated an Urban Renewal Development Agreement with the Developer (the “Development Agreement”) with the Developer, whereby the Developer has agreed to construct the Improvements, in accordance with the Conceptual Development Plan, which proposed Development Agreement and Conceptual Development Plan related thereto are on file in the office of the City Clerk; and

**WHEREAS**, the proposed Development Agreement provides that in consideration of the Developer’s commencement and completion of the Improvements, the City will provide an economic development grant for 15 years (30 semi-annual installments) for each phase of the project from the tax increment generated by the Improvements, and in lieu of tax abatement for the second phase, as follows:

- Phase 1: Contingent on commencement and completion of construction of the second phase mixed-use building; in the amount of ninety-five percent (95%) of project-generated TIF in project years 1-5, eighty-five percent (85%) in project years 6-10, and eighty-percent (80%) in project years 11-15, in an estimated total amount of \$1,100,000.00 (on a cash basis; \$703,000.00 on a net present value basis at a 4.5 % discount rate)
- Phase 2: In the amount of one-hundred percent (100%) of project-generated TIF in project years 1-10 and seventy-five percent (75%) in project years 11-15, in an estimated total amount of \$4,100,000.00 (on a cash basis; \$2,700,000.00 on a net present value basis at a 4.5% discount rate); and

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**WHEREAS**, the Developer has further agreed, as stated in the Development Agreement, to preserve a minimum of ten percent (10%) of the apartment units built in the second phase of the project to be capped at the sixty-five percent (65%) HOME rent limits and restricted to households earning eighty percent (80%) or less of the area median income, in addition to participation in and compliance with MidAmerican Energy's Commercial New Construction Energy Efficiency Program for both phases of the project; and

**WHEREAS**, at its meeting on November 3, 2020, the Urban Design Review Board voted 7-0 to recommend approval of final design of Phase 1 of the Improvements as proposed by the Developer and set forth in the Conceptual Development Plan incorporated in the Development Agreement, with Phase 2 to be submitted for review by the Board and Council at a later date, and voted 7-0 to recommend approval of financial assistance as set forth above and in said Agreement.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Moines, Iowa, that:

1. The City Council hereby makes the following findings in support of the proposed Development Agreement with 13<sup>th</sup> & Mulberry, LLC and 13<sup>th</sup> & Mulberry Multifamily, LLC (collectively "Developer"):
  - a. The Developer's obligations under the Development Agreement to redevelop the Property for commercial and residential uses 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; to encourage the development of affordable and market-rate housing in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live, work and retain employment in the Metro Center Urban Renewal Project Area; to provide a variety of locations to serve the different housing markets within the City; and to maintain and expand taxable values and employment opportunities within the Metro Center Urban Renewal Project Area.
  - b. The economic development incentives for the development of the Project are provided by the City pursuant to the Urban Renewal Law and Chapter 15A of the Code of Iowa, and Developer's obligations under the Development Agreement to construct the Improvements will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Metro Center Urban Renewal Project Area in accordance with the Metro Center Urban Renewal Plan; (ii) it will establish conditions which attract further new investments and prevent the recurrence of blight and blighting conditions; and (iii) it will further the City's efforts to retain and create job opportunities within the Metro Center Urban Renewal Project Area which might otherwise be lost; (iv) it will provide housing in decent, safe and sanitary conditions in an attractive setting to serve employees and other people who would like to live in the downtown area; and (v) it will encourage further private investment and will attract and retain residents and businesses in the downtown area of the City of Des Moines to reverse the pattern of disinvestment and declining resident population.
  - c. The construction of the Project is a speculative venture and the construction and the construction and resulting benefits would not occur without the economic incentives provided by the Development Agreement.
  - d. The development of the Property pursuant to the Development 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 Project has been undertaken, and warrant the provision of the economic assistance set forth in the Agreement.

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2. The Urban Renewal Development Agreement between the City, 13<sup>th</sup> & Mulberry, LLC, and 13<sup>th</sup> & Mulberry Multifamily, LLC, and the Conceptual Development Plan attached thereto, both as on file in the office of the City Clerk, are hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute and attest to, respectively, the Agreement on behalf of the City of Des Moines.

3. The Director of the Office of Economic Development or her designee are directed to submit a copy of the fully executed Development Agreement to the Finance Department for purposes of required Electronic Municipal Market Access disclosure filings.

4. Upon requisition by the Office of Economic Development, the Finance Department shall advance the installments on the Economic Development Assistance pursuant to Article 4 of the Development Agreement.

5. The Department Services Director or designee(s) are hereby authorized and directed to administer the Development Agreement on behalf of the City, and to monitor compliance by the Developer with the terms and conditions of the Agreement. The Department Services Director 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 Comm. No. 20-564)

MOVED BY \_\_\_\_\_ TO ADOPT.

APPROVED AS TO FORM:

/s/ Glenna K. Frank  
Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COWNIE				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

**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.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk