

Date February 8, 2021

**RESOLUTION APPROVING URBAN RENEWAL DEVELOPMENT AGREEMENT WITH 3801 GRAND ASSOCIATES, L.P. AND NEWBURY MANAGEMENT COMPANY (FRANK LEVY), AND CONCEPTUAL DEVELOPMENT PLAN, FOR THE CONSTRUCTION OF 56-UNIT MULTI-RESIDENTIAL APARTMENT BUILDING LOCATED AT 3705-3707 GRAND AVENUE**

**WHEREAS**, 3801 Grand Associates, L.P., Owner, and Newbury Management Company d/b/a Newbury Living, Developer (collectively “Developer”), represented by Frank Levy, President, propose to undertake the construction of a new four-story, approximately 130,000 square-foot multi-residential building to be known as “The James” with 56 apartment units and 69 below-grade parking stalls located at 3801 Grand Avenue in the 38<sup>th</sup> and Grand Urban Renewal Area, which is expected to contain a mix of approximately three studio units, 15 one-bedroom units, 27 two-bedroom units and 11 three-bedroom units (“Improvements”), at an estimated total project cost of \$33,500,000.00 including property purchases, subject to acquisition by Developer of the 3801 Grand Avenue campus and land acquisitions of 3705-3707 Grand Avenue; and

**WHEREAS**, the project site was identified as a potential redevelopment opportunity through the 38<sup>th</sup> and Grand Urban Renewal Area planning work, and all buildings on the previously developed 3705-3707 Grand Avenue site have been previously demolished; and

**WHEREAS**, construction of the Improvements is anticipated to commence in early 2021, with an estimated 15-month construction schedule; and

**WHEREAS**, pursuant to Roll Call No. 20-1663, 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”), 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 11 years from the tax increment generated by the Improvements, in the amount of one-hundred percent (100%) of project-generated TIF, in an estimated total amount of \$4,700,000.00 (cash basis; \$3,300,000.00 on a net present value basis at a 4.5% discount rate); and

**WHEREAS**, the Developer has further agreed, as stated in the Development Agreement, as follows:

- to preserve the three studio apartment units 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 for a 15-year period, which affordability requirement is a condition precedent of receipt of the above-described economic development grant for its duration and subject to liquidated damages owed by Developer to City in the amount of \$600,000.00 if violated for the 15-year covenant period;

Date February 8, 2021

- to participate in and comply with MidAmerican Energy's Commercial New Construction Energy Efficiency Program and exceed applicable energy codes in the Improvements by a minimum of twenty percent (20%); and
- to enter into a trial partnership under the Unlimited Access Program with the Des Moines Area Regional Transit (DART) Authority, starting in January 2021, to provide free use of DART buses to four Newbury Management Company multi-residential properties in and near downtown Des Moines, including the project site, insofar as costs related to program access by residents of The James do not increase more than eight percent (8%) per year on average over an 11-year period; and

**WHEREAS**, at its meeting on December 1, 2020, the Urban Design Review Board voted 7-0 to recommend approval of final design of the Improvements as proposed by the Developer and set forth in the Conceptual Development Plan incorporated in the Development Agreement, subject to the Developer working with City Development Services staff and representatives of the Board to review the connection between the two buildings and resolving concerns over the fiber cement board usage at grade level which has been completed, and for 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 3801 Grand Associates, L.P., Owner, and Newbury Management Company d/b/a Newbury Living, Developer (collectively "Developer"):
  - a. The Developer's obligations under the Development Agreement to redevelop the Property for multi-household residential uses furthers the objectives of the 38<sup>th</sup> and Grand Urban Renewal Plan to (i) encourage redevelopment of underutilized properties and remedy the blighted conditions existing in the 38<sup>th</sup> and Grand Urban Renewal Project Area, (ii) assist in the redevelopment of the 38<sup>th</sup> and Grand Urban Renewal Project Area for medium- to high-density housing and to develop a quality mix of market-rate multi-household housing and condominiums that enhance the neighborhood, (iii) provide an attractive and appealing physical environment for residents to improve the livability of the 38<sup>th</sup> and Grand Urban Renewal Area, (iv) improve the existing housing stock by removing blighted properties and redeveloping them into medium- or high-density multi-household dwellings, (v) support the construction of quality medium- and high-density residential infill projects on cleared or vacant parcels, (vi) expand housing opportunities for residents, (vii) remove blighting physical conditions that cause or contribute to a shortage of decent, safe and sanitary housing and constitute a menace to the public health, safety, morals and welfare, (viii) ensure new development is of high quality, sustainable and provides adequate parking and pedestrian connections and access, and (ix) direct new growth and redevelopment to areas with existing infrastructure and nodes and corridors based on proximity to transit, shopping, services and public amenities.
  - b. The economic development incentives are provided by the City to Developer 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 public gains and benefits as stated above in subsection (a).
  - c. The construction of the Project is a speculative venture 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,

Date February 8, 2021

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.

2. The Urban Renewal Development Agreement between the City and Developer, 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. 21-059)

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