



Roll Call Number

20-1453

Agenda Item Number

45

Date September 14, 2020

**RESOLUTION APPROVING FIRST AMENDMENT TO DEVELOPMENT AGREEMENT  
WITH SWAPS CASH, LLC (LINCOLN AND LISA MCILRAVY) FOR THE  
CONSTRUCTION OF A NEW 6-STORY, 112 ROOM ELEMENT HOTEL PROJECT  
LOCATED AT 304 EAST WALNUT STREET**

**WHEREAS**, on April 8, 2019, by Roll Call No. 19-0557, the City Council approved preliminary terms of agreement with Swaps Cash, LLC, represented by Lincoln and Lisa McIlravy, Members, (“Developer”), for construction of a new 6-story, 112 room Element Hotel on a vacant half block site at 304 E. Walnut Street, also known as 333 East 3<sup>rd</sup> Street, which is expected to include at least 2,000 square feet of ground level commercial retail space for lease on East Walnut Street and approximately 63 parking stalls within a second floor covered ramp and the use of at least 32 leased stalls within the existing parking ramp located at 240 East Walnut Street (collectively the “Improvements” or “Project”), at an estimated total project cost of \$21,500,000, subject to receipt of the financial assistance identified below; and

**WHEREAS**, pursuant to Roll Call No. 19-0557, the City Council directed the City Manager to proceed with negotiation of a development agreement with Developer for said Project; and

**WHEREAS**, on August 19, 2019, by Roll Call No. 19-1347, the City Council approved an Urban Renewal Development Agreement (the “Development Agreement”) with the Developer, whereby the Developer has agreed to construct the Project, in accordance with a City-approved site plan and the Conceptual Development Plan, in exchange for project-generated tax increment financing (TIF) assistance from the City; and

**WHEREAS**, the Development Agreement currently provides that the Developer was required to commence construction of the project no later than December 31, 2019, with substantial completion of the Improvements by December 31, 2021, and with economic development (TIF) assistance to be provided thereafter; and

**WHEREAS**, the Developer has been unable to commence or complete construction of the Improvements in accordance with said deadlines due to circumstances related to project changes necessary to meet the construction budget and has asked for an extension of said deadlines, which also requires a delay to provision of economic development (TIF) assistance; and

**WHEREAS**, City Economic Development staff and the Developer have negotiated terms of a First Amendment to the Development Agreement and Restated Declaration of Covenants, on file in the office of the City Clerk, extending the deadlines for Developer to commence and complete construction of the Improvements from December 31, 2019 and December 31, 2021 to July 31, 2021 and December 31, 2023, respectively.

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



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1. The First Amendment to the Urban Renewal Development Agreement by and between the City and Swaps Cash, LLC, is hereby approved, and the Mayor is authorized and directed to execute said documents on behalf of the City of Des Moines and the City Clerk to attest to his signature.
2. The City Manager and his designees are hereby authorized and directed to administer the Agreement on behalf of the City and to monitor compliance by Swaps Cash, LLC with the terms and conditions of the Agreement, as amended. The City Manager is further directed to forward to City Council all matters and documents that require further City Council review and approval in accordance with the Agreement, as amended.

(Council Comm. No. 20-409)

MOVED BY *Gatto* TO ADOPT.

APPROVED AS TO FORM:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

*J. M. Franklin Cownie* APPROVED  
Mayor

**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.

*P. Kay Cmelik* City Clerk