



**Roll Call Number**

21-1605

**Agenda Item Number**

52 C

**Date** October 18, 2021

**RESOLUTION CLOSING HEARING, SELECTING DEVELOPER, APPROVING URBAN RENEWAL AGREEMENT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT AND FOR DEVELOPMENT OF LAND**

**WHEREAS**, THE City of Des Moines owns approximately 75,712 square feet of street right-of-way located on 16<sup>th</sup> Street and Linden Street, generally bounded by High Street and Ingersoll Avenue and 15<sup>th</sup> Street and 17<sup>th</sup> Street, more specifically described as follows:

That part of 16th Street Right of Way lying between Blocks B and C, that part of Linden Street Right of Way lying between Blocks B, C and D, and that part of Lots 2, 3, 8 and 9, of Block D, all in Subdivision of Lot No. 6 of the Pursley Estate, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa; that part of 16th Street Right of Way lying between Lots 2 and 3 and that part of Lots 1, 2 and 3, all in Linden, an Official Plat now included in and forming a part of the City of Des Moines, Polk County, Iowa described as follows:

Beginning at the Northeast corner of said Block B, thence South 89 degrees 39 minutes 26 seconds East (assumed bearing), 66.00 feet to the Northwest corner of said Block C; thence South 00 degrees 08 minutes 25 seconds East, on the east right of way line of 16th Street; 279.64 feet to the southwest corner of said Block C; thence South 89 degrees 44 minutes 50 seconds East, on the north right of way line of Linden Street; 388.93 feet; thence South 66 degrees 10 minutes 14 seconds West, 72.00 feet; thence South 71 degrees 03 minutes 40 seconds West, 111.40 feet; thence South 75 degrees 57 minutes 20 seconds West, 47.56 feet; thence South 79 degrees 19 minutes 06 seconds West, 110.00 feet; thence South 84 degrees 40 minutes 46 seconds West, 90.00 feet; thence South 87 degrees 41 minutes 29 seconds West, 206.00 feet; thence North 00 degrees 00 minutes 20 seconds West, 50.56 feet to a point on the south right of way line of Linden Street; thence North 89 degrees 44 minutes 50 seconds West, on said south line, 93.00 feet to the northwest corner of said Block D; thence North 00 degrees 00 minutes 20 seconds West, 66.00 feet to the southwest corner of said Block B; thence South 89 degrees 44 minutes 50 seconds East, on the north right of way line of Linden Street, 259.00 feet to the southeast corner of said Block B; thence North 00 degrees 08 minutes 25 seconds West, on the west right of way line of 16th Street, 279.74 feet to the point of beginning.

(the “City-Owned Property”); and,

**WHEREAS**, on February 8, 2021, by Roll Call No. 21-0219 the City Council of the City of Des Moines approved a preliminary development agreement with Krause+ (Gerard Haberman,



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President, 1459 Grand Ave, Des Moines, IA 50309-3005) for redevelopment of an approximately 66-acre area consisting of two areas of downtown Des Moines; and,

**WHEREAS**, consistent with those preliminary terms, KG Store 543, LLC, an entity affiliated with Krause+ desires to enter into a development agreement on a portion of that property (the "Crescent Chevrolet Site") under the same general terms as approved by the Des Moines City Council in the preliminary terms; and,

**WHEREAS**, the City Manager has negotiated an Urban Renewal Development Agreement (the "Agreement") with KG Store 543, LLC (the "Developer") whereby the Developer has agreed to remodel the building located on the Crescent Chevrolet Site for mixed commercial use as a retail restaurant and brew pub and for office space; and,

**WHEREAS**, there is no known current or future public need or benefit for the City-Owned Property and the right-of-way that was vacated by the City prior to the approval of this Agreement and the City will not be inconvenienced by the vacation of said right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated; and,

**WHEREAS**, proper notice of the vacation of said right-of-way was published in the Des Moines Register on October 6, 2021; and,

**WHEREAS**, on September 13, 2021, in Roll Call 21-1412, the City Council directed the City Manager to entertain competing proposals for sale of the City-Owned Property, propose a final agreement and an approved process for the sale of the City-Owned Property, thus notifying any other interested developers in the potential sale of the City-Owned Property; and,

**WHEREAS**, on September 13, 2021 in Roll Call 21-1412, the City Council accepted the Agreement and authorized publication of notice of intent to enter into the Agreement at a public hearing and set a competitive bidding process in compliance with Iowa Code section 403.8 for the sale and redevelopment of the City-Owned Property that required any competing bids be submitted by October 15, 2021 and if none were submitted a hearing be set for October 18, 2021 to review the Proposed Agreement and select a developer; and,

**WHEREAS**, notice of the public hearing was published in the Des Moines Register on September 15, 2021; and,

**WHEREAS**, the City received no competing proposals for the purchase and redevelopment of the Property.



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

1. Upon due consideration of the facts and statements presented, the hearing is hereby closed.
2. The City Council hereby makes the following findings regarding the proposed sale and conveyance of the Property pursuant to the Agreement and regarding the Agreement:
  - a) The Developer's obligations under the Agreement to complete the planned improvements to the City-Owned Property and property owned by the Developer 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 and maintain taxable values within the Metro Center Urban Renewal Area, to increase employment opportunities, to encourage the development of a range of housing options in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area, and to encourage intensive and coordinated commercial and residential mixed-use development.
  - b) there is no known current or future public need or benefit for the City-Owned Property and the right-of-way that was vacated by the City prior to the approval of this Agreement and the City will not be inconvenienced by the vacation of said right-of-way, subject to the reservation of any necessary easements for all existing utilities in place until such time as they may be abandoned or relocated and proper notice of the vacation of said right-of-way was published in the Des Moines Register on October 6, 2021; and,
  - c) The economic development incentives for the planned improvements to the Property shall be provided by the City to Developer pursuant to the Iowa Urban Renewal Law and Chapter 15A of the Code of Iowa and Developer's obligations under the Agreement to construct such improvements will generate the following public gains and benefits:
    - (i) it will advance the improvement and redevelopment of the Market District in accordance with the Urban Renewal Plan; (ii) it will advance the goal of providing a range of housing options in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area; (iii) it will encourage further private investment and will attract and retain residents and businesses in the Market District area; and, (iv) it will further the City's efforts to create and retain job opportunities within the Metro Center Urban Renewal Area which might otherwise be lost.



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- d) The construction of the planned improvements to the Property is a speculative venture and the construction and resulting employment, housing and redevelopment opportunities would not occur without the economic incentives and other covenants to be provided by the City pursuant to the Agreement.
- e) The fair market value of the City-Owned Property is as shown in the Agreement, subject to the terms, conditions, restrictions, requirements, limitations, and covenants placed on the use of the City-Owned Property pursuant to the terms of the Agreement.
- f) The redevelopment of the Property pursuant to the 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 Metro Center Urban Renewal Project has been undertaken and warrant the provision of the economic assistance set forth in the Agreement.

3. The Urban Renewal Agreement for Sale of Land for Private Redevelopment and for Development Of Land Owned by Developer between the City and KG Store 543, LLC, (the "Agreement") is hereby approved.

4. The Mayor is hereby authorized and directed to execute the Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the Agreement.

5. Upon request by the City Legal Department and at the times provided for in the Agreement, the Mayor is hereby further authorized and directed to execute Quitclaim Deeds on behalf of the City for conveyance of the City-Owned Property to the Developer, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on the Deed. The City Clerk is further directed to forward the signed Deed to the Legal Department for release to the Developer at Closing as provided in the Agreement.

6. The Economic Development Director or the Directors designee is directed to submit a copy of the fully executed Development Agreement to the Finance Department to enable the Finance Director to make any appropriate disclosure filings in accordance with the City's adopted revised Disclosure Policy.

7. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the Initial and Deferred Economic Development Grants pursuant to Article 7 of the Agreement.



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8. The City Manager or his designees are hereby authorized and directed to administer the Agreement on behalf of the City and to monitor compliance by the Developer with the terms and conditions of the Agreement. The City Manager 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 Communication No. 21- **457** )

MOVED by Mandelbaum to adopt.

FORM APPROVED:

/s/ Thomas G. Fisher Jr.

Thomas G. Fisher Jr.  
Assistant City Attorney

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

J. M. Frankhu Cowrie  
MOTION CARRIED 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