

13
22
TV



Doc ID: 028240300004 Type: GEN
Kind: MISCELLANEOUS
Recorded: 01/22/2014 at 03:27:11 PM
Fee Amt: \$27.00 Page 1 of 4
Revenue Tax: \$0.00
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2014-00058117

BK **15088** PG **861-864**

RETURN TO:

Prepared by: Roger K. Brown, Assistant City Attorney, City Hall - Legal Department, 400 Robert D. Ray Drive, Des Moines, IA 50309, Phone: 515-283-4541
Return to: Same
Taxpayer: No Change
Grantor: Ingersoll Square Phase III Associates, LP
Grantee: City of Des Moines, Iowa (beneficial interest in covenants)
Legal: See Exhibit "1" at page 4.

DECLARATION OF COVENANTS

Ingersoll Square Phase III Associates, LP, an Iowa limited partnership (the "Owner"), in consideration of the financial incentives to be provided by the City of Des Moines, Iowa (the "City"), pursuant to the Urban Renewal Development Agreement dated as of November 18, 2013, (the "Agreement"), does hereby convey unto the City the beneficiary interest of the covenants set forth below, in and to the "Property" described in Exhibit "1".

Sec. 1. Agreement / Conceptual Development Plan. This Declaration of Covenants is executed and filed by Owner in performance of its obligations under Section 3.2(b) of the Agreement. All references herein to the approved Conceptual Development Plan are intended to refer to the Conceptual Development Plan attached as Exhibit "C" to the Agreement, as the same may be amended from time to time by Owner with the written consent of City. All references hereto to the Certificate of Completion are intended to refer to the Certificate of Completion to be issued by City pursuant to Section 2.4 of the Agreement and recorded to memorialize the satisfactory completion of the required Improvements to the Property. The Agreement and Conceptual Development Plan are on file and available for public inspection in the office of the City Clerk, at City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

Sec. 2. Duration. The Property shall be subject to the covenants set forth herein for a term (the "Restricted Term") commencing upon the recording of this Declaration of Covenants and continuing until the earlier of June 1, 2036, or the recording of a Termination Certificate by City which certifies that Owner has satisfied all its obligations under the Agreement.

Sec. 3. Covenants. During the Restricted Term, the Property shall be subject to the following covenants, limitations and restrictions regarding its future use and development (herein referred to as the "Covenants"):

- a) Prohibition Against Discrimination in Sale or Leasing. Owner, and its successors and assigns shall not discriminate against or segregate any person or group of persons on account of age, race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, disability or familial status in the sale, leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property or the improvements erected or to be erected thereon, and not establish or permit any such practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, sub-tenants or vendees in the property or the improvements erected or to be erected thereon.
- b) Prohibition Against Discrimination in Employment. In the employment of persons upon the Property, the Owner and its successors and assigns shall comply with all federal, State of Iowa and local laws prohibiting discrimination.
- c) Conceptual Development Plan. The Property shall be used in conformity with the approved Conceptual Development Plan. All amendments to the Conceptual Development Plan are subject to review and approval by the City to assure continued compliance with the land use requirements set forth in the Urban Renewal Plan for the Metro Center Urban Renewal Area.
- d) Maintenance. The Improvements constructed upon the Property pursuant to this Agreement shall be maintained in good condition and repair in substantial conformance with the approved Conceptual Development Plan. In the event of fire or other casualty loss, repairs to restore the Improvements to their former condition in substantial conformance with the approved Conceptual Development Plan shall be commenced within ninety (90) days and diligently pursued to completion.

Sec. 4 Required Terms in any Conveyance. During the Restricted Term, Owner shall endeavor to include in every deed, and other instrument conveying all or any part of Owner's ownership interest in any portion of the Property, excluding transfers of limited partnership interests in Owner, a provision identifying the terms, conditions, restrictions and requirements of this Declaration of Covenants, and acknowledging that the City may enforce the terms, conditions, restrictions and requirements of this Declaration against Owner's successors and assigns to the same extent as against the Owner. Owner shall cooperate in good faith in the City's enforcement of the requirements of Sec. 3, above, against Owner's successors and assigns to any interest in the Property.

Sec. 5. Covenants; Binding Upon Successors in Interest. It is intended that the covenants undertaken by Owner pursuant to this Declaration of Covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Declaration of Covenants, be binding, only to the extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, its successors and assigns, against the Owner, and its successors and assigns and every successor in interest to any portion of the Property and the improvements erected or to be erected thereon, or any part thereof or any interest therein, and any party in possession or occupancy of any of such property, or any part thereof.

SIGNED this 5th day of December, 2013.

Ingersoll Square Phase III Associates, L.P.,
an Iowa limited partnership,

By: **Ingersoll Square III GP, LLC,**
an Iowa limited liability company, its General Partner

By: *Frank Levy*
Frank Levy, Managing Member

State of Iowa)
) ss:
County of Polk)

On this 5th day of December, 2013, before me, a notary public, personally appeared **Frank Levy**, to me personally known, who being by me duly sworn did say that he is the Managing Member of **Ingersoll Square III GP, LLC**, an Iowa limited liability company, which is the General Partner of **Ingersoll Square Phase III Associates, L.P.**, an Iowa limited partnership; that he signed the forgoing instrument on behalf of **Ingersoll Square Phase III Associates, L.P.**, by authority of its General Partner, and on behalf of said General Partner as its Managing Member; and he acknowledged the execution of the said instrument to be the voluntary act and deed of said limited partnership and limited liability company, by each entity and by him voluntarily executed.

Mary L. Neiderbach
Notary Public in the State of Iowa
My commission expires: _____

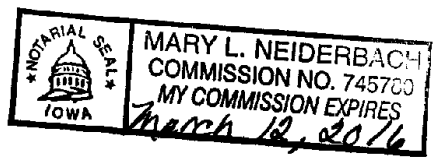


Exhibit "1"
to Declaration of Covenants
Legal Description of the Property

Parcel "D" being described on Plat of Survey filed November 13, 2012, and recorded in Book 14528 Page 338 in the Office of the Recorder of Polk County, Iowa, being a part of Lots 1 through 6 in Harding Road Place and part of Lots 5 through 9 in Block B of West & Burton's Addition to Des Moines, Polk County, Iowa.