

9535

STATE OF IOWA

Doc. No. 9535
WOODBURY COUNTY, IOWA
Filed for Record

CITY OF SIOUX CITY

NOV 12 2002

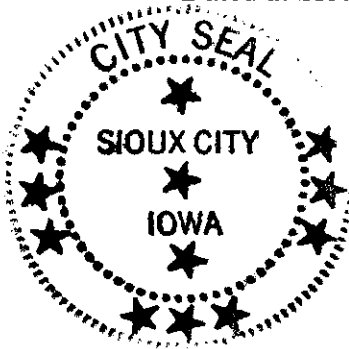
Woodbury County

Office of the City Clerk

Time 3:00 ~~PM~~ ^{AM} Fee \$ 31 ~~Ret~~ ^{ch}
PATRICK F. GILL, Auditor & Recorder
By C. Murphy Designee

I, Robert K. Padmore, City Clerk of the City of Sioux City and City Clerk of the City Council thereof, and as such, having charge of and in my possession all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of the Resolution No. 2002-0599 adopted by the City Council of the City on the 10th day of June 2002, upon the call of yeas and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 26th day of June 2002.



(SEAL)


ROBERT K. PADMORE
CITY CLERK

RESOLUTION NO. 2002-000599

RESOLUTION APPROVING A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN CIVIC PARTNERS AND THE CITY OF SIOUX CITY, IOWA

WHEREAS, the City of Sioux City, Iowa and Civic Partners did on November 19, 2001, enter into a Development Agreement in connection with the development of certain property in the Combined Central Sioux City – CBD Urban Renewal Area; and

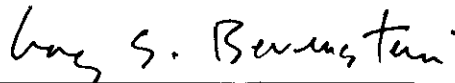
WHEREAS, Civic Partners have proposed that such Development Agreement be amended; and

WHEREAS, a copy of such First Amendment to Civic Partners Development Agreement is attached hereto and should be approved as to form and content.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, that the First Amendment to Civic Partners Development Agreement between Civic Partners and the City of Sioux City, Iowa, as referred to in the preamble hereof, be and the same is hereby approved as to form and content.

BE IT FURTHER RESOLVED that the Mayor and Acting City Clerk be and they are hereby authorized and directed to execute said First Amendment to Civic Partners Agreement for and on behalf of the City.

PASSED AND APPROVED: June 10, 2002



Craig S. Berenstein, Mayor

ATTEST: 

Brittany A. Worden, Acting City Clerk

FIRST AMENDMENT TO CIVIC PARTNERS
DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT made and entered into on June 10, 2002, by and between the City of Sioux City, Iowa, (hereinafter "City") and Civic Partners Sioux City L.L.C. (hereinafter "Redeveloper").

WHEREAS, City and Redeveloper have, pursuant to Resolution No. 2001-1027 passed and approved November 19, 2001, entered into a Development Agreement for the redevelopment of a portion of the Combined Central Sioux City - CBD Urban Renewal Area; and

WHEREAS, City and Redeveloper propose to amend said Development Agreement; and.

NOW, THEREFORE, in consideration of the promises and mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

1. Section 3 of Part I of the Development Agreement is amended by adding thereto a new unnumbered paragraph to read as follows:

"Should soil testing indicate that subsurface soils upon Parcel 1 contain materials which are unsuitable for the construction of the project and which require excavation, remediation and fill of such Parcel 1, Redeveloper shall undertake such excavation, remediation and fill. Redeveloper shall obtain at least three bids from responsible bidders for the work to be performed. Redeveloper shall also obtain at least three bids from responsible bidders for the demolition and removal of all surface improvements on Parcel 1. City will reimburse Redeveloper for the actual cost of the demolition and removal of all surface improvements on Parcel 1 or the lowest bid for such work, whichever is lower. As for the cost of the excavation, remediation and fill of the subsurface of Parcel 1, the parties agree to share such cost (actual cost or lowest bid, whichever is lowest) as follows:

- a. City shall reimburse Redeveloper for up to the first \$128,000.00 of such cost.
- b. Redeveloper shall be responsible for the payment of such cost exceeding \$128,000.00 up to and including \$228,000.00, i.e. the next \$100,000.00 of such costs.
- c. City shall reimburse Redeveloper for 50% of such costs in excess of \$228,000.00 with the Redeveloper being responsible for the payment of the other 50% of such costs.

2. In all other respects, the Development Agreement entered into by the parties on November 19, 2001, be and the same is hereby ratified, confirmed and approved.

CITY OF SIOUX CITY, IOWA

BY: Craig S. Berenstein
Craig S. Berenstein, Mayor

ATTEST: Brittany Worden
Brittany Worden, Acting City Clerk

CIVIC PARTNERS SIOUX CITY, L.L.C.

BY: J. Scott Clements
ITS: Authorized Representative
Authorized Representative

STATE OF IOWA)
 : ss
COUNTY OF WOODBURY)

BE IT REMEMBERED, on this 10th day of June, 2002, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Craig S. Berenstein. and Brittany A. Worden to me personally known, who, being by me duly sworn, did say that they are Mayor and Acting City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Craig S. Berenstein and Brittany A. Worden acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.



Diane Bailey
NOTARY PUBLIC IN AND FOR WOODBURY COUNTY

~~STATE OF _____)
 : ss.
COUNTY OF _____)~~

~~On this _____ day of _____, 2002, before me, the undersigned a Notary Public in and for said County and State, personally appeared _____ and _____, to me personally known, who being by me duly sworn, did say that they are the _____ and _____ respectively, of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) corporation; that said instrument was (the seal affixed thereto is the seal of said) signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said _____ and _____ as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.~~

~~(SEAL)~~

~~_____
NOTARY PUBLIC~~

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Orange } ss.

On June 19, 2002 before me, Shelly Semingson, Notary Public,
personally appeared J. Scott Clements

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Shelly Semingson
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Amendment to Development Agreement

Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: J. Scott Clements
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: Authorized Representative

Signer Is Representing: Civic Partners Sioux City, LLC

