

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: May 9, 2011
	Agenda Item No. 60 Roll Call No. <u>11-841</u> Communication No. <u>11-283</u> Submitted by: Richard A. Clark City Manager

AGENDA HEADING:

Resolution approving execution of various documents relating to title for the Des Moines Building (405 6th Ave. and 513 Locust St.).

SYNOPSIS:

Approval of these documents (*Assignment of Loan Documents and Cause of Action and Release and Indemnification Agreement*) is one of the last steps to be taken in completing a request to the court to award the property title to the City. These documents assign the mortgage to the City and release and indemnify the mortgage holder, PNC Bank, NA (Pittsburgh, Pa.) from any claims relating to the assignment of the mortgage. With Council approval of execution of these documents, the Legal Department will deliver these documents with the request to the court to award the property title, free and clear of all other interests, to the City.

FISCAL IMPACT:

Amount: It is anticipated the ‘caretaking’ costs will be in the \$125-150,000 range before a redeveloper takes title to the property. As of the end of April, approximately \$77,000 has been spent by the City on the property for fire safety purposes and to maintain its physical viability for redevelopment. These costs are:

- Utilities (building has been kept at 45°): \$50,000
- Emergency repairs: \$8,000
- Maintenance staff: \$19,000

Demolition of the structures has been estimated in the \$2-\$2.5 million range.

Funding Source: Operating Budget, Economic Development Enterprise Account, SP746, CMO980717, page 56.

ADDITIONAL INFORMATION:

The Des Moines Building has been in the process of foreclosure for the past two years. The owners of record, Des Moines Tria Tower, LLC, have not made the mortgage or property tax payments and been generally unavailable for service of legal notices. The bank holding the mortgage failed and the mortgage was acquired by PNC Bank (Pittsburgh, Pa.). PNC had a court-appointed receiver provide maintenance services for the building and market the building for sale. The receiver stopped provision of those services and was dismissed by the court on December 8, 2010.

On December 9, 2010, the heating system was turned off and ice began to accumulate in the plumbing and fire sprinkler systems. The City Legal Department obtained an emergency court order on December 10, 2010 authorizing the City to enter the property immediately to provide adequate heat to prevent severe damage to the sprinkler system. Promptly upon issuance of the court order, City employees and representatives entered the building and began the necessary repairs to start the boiler. If the heating system had not been made operational that afternoon, the plumbing and fire sprinkler systems would have been severely damaged. The continued maintenance of the sprinkler system and provision of sufficient heat to keep that system from freezing and breaking is essential for the safety of the property and those buildings physically connected by the skywalk system to the Des Moines Building.

At its January 10, 2011 meeting, the Council declared the property to be a public nuisance. The Council also authorized the Legal Department to pursue a court order declaring the building abandoned and undertake related actions, as necessary, to obtain the property title.

General process for soliciting redevelopment proposals.

This process is intended to be rapid to permit sale of the property in a short time-frame while providing a 'level field' for interested developers.

Within one week after title is obtained to the property, the offering period and terms for a redevelopment proposal will be posted on the City's web site under the Des Moines Building (<http://www.dmgov.org/Departments/CityManager/Pages/DSMBuilding.aspx>); based on current expectations of having property title by May 16th, the offering period would begin May 23rd. Staff will conduct tours of the building that week.

Redevelopment proposals will be received with the initial due date of June 6, 2011 with a staff recommendation on selection of a developer made for the June 13, 2011 Council meeting.

Written proposals received from interested developers will be evaluated based on the criteria discussed below. It is the intent to have a finalized redevelopment proposal that will outline the level of needed City financial assistance. A finalized proposal will then be forwarded to Council which, if it desires to proceed with the particular proposal, will set a public hearing on the proposed sale. If no proposals have been received or the existing proposals are not responsive to the criteria, the offering period will continue on an open basis until a developer is selected or Council chooses to close the offering period.

Redevelopment Criteria

The criteria are designed to select a developer with experience in similar-type projects and sufficient financial resources to begin redevelopment on this National Register-eligible property as rapidly as possible. Renovation of the structure is the most likely redevelopment approach; estimated costs are in the \$15-20 million range. The building will be sold "as-is" with transfer of the utilities and other maintenance costs occurring at the time of conveyance.

Staff evaluation and recommendation to the Council will consider the following criteria as key points. Each Developer in their redevelopment proposal will be asked to provide written information on the following:

- A concept plan showing the uses for the space.

- Financial information showing the sources and uses budget (the costs and the sources of financing) for the redevelopment and a 10 year pro-forma.
- The ability to finance the redevelopment in conformance with the plans; commitments from financial institutions are especially desirable.
- Experience in doing comparable projects.
- Knowledge of historic and other tax credit programs that are likely sources of financing and how these programs will impact use and/or alteration of the building.
- A project schedule showing key dates.
- Any request for economic development assistance will be evaluated with preference given to proposals that provide a payback of costs the City has incurred (estimated to be in the \$150,000 range) and minimal upfront City assistance until the project is underway or completed.

At the time the City selects a developer, the selected developer will then provide a check for at least \$25,000 that will be used by the City on a 50%/50% basis for maintenance and utility costs until the title is taken by the developer.

PREVIOUS COUNCIL ACTION(S):

Date: February 28, 2011

Roll Call Number: 11-0370

Action: [Regarding](#) procedures and process to solicit proposals for the private redevelopment of The Des Moines Building at 405 6th Avenue and 513 Locust Street. ([Council Communication No. 11-110](#)) **Moved by Hensley to adopt. Motion Carried 7-0.**

Date: January 10, 2011

Roll Call Number: 11-0040

Action: [Declaring](#) the Des Moines Building at 405 6th Avenue and 513 Locust Street to be a public nuisance, authorizing the Legal department to pursue a court order to abate the nuisance and declare the building abandoned and award title to the City. ([Council Communication No. 11-005](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Once the City obtains title to the property, need to 'show' building, including an on-line video.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City

Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.