

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	November 7, 2011
	Agenda Item No. Roll Call No. Communication No. Submitted by:	44 <u>11-1898</u> <u>11-687</u> Terrance N. Vorbrich, Acting Economic Development Administrator

AGENDA HEADING:

Open/close public hearing for the conveyance of the Des Moines Building property at 405 6th Avenue and 513 Locust Street to Des Moines Apartments, LP, and complete the first reading of the ordinance to vacate an underground portion of City right-of-way on the north alley with waiver of the second and final readings requested.

SYNOPSIS:

This roll call opens and closes the public hearing on the proposed “Agreement for Sale of Real Estate” to sell the Des Moines Building property and provides for the first reading (with waiver of the 2nd and 3rd readings requested) to vacate an underground portion of the public right-of-way adjoining the Des Moines Building property; a portion of the basements extends under the north alley.

Des Moines Apartments, LP (Managing Partners are Michael Nelson of Nelson Development, 10145 76th Street, West Des Moines, IA, and Steve Foutch of Foutch Brothers, LLC, 8201 NW 97th Terrace, Kansas City, MO) which will purchase the property and be responsible for the underground portion of the building that extends under the City right-of-way on the north alley. Nelson Development and Foutch Brothers, LLC, were selected by the Council in July 2011 as the Preferred Redeveloper of the property and have established Des Moines Apartments, LP, to serve as the Redeveloper for the redevelopment of the property.

FISCAL IMPACT:

Amount: \$150,000 sales price to be deposited into Account CMO980717 (Economic Development Enterprise); \$25,000 has already been received and deposited as a non-refundable portion of the sales price at the time the Preferred Redeveloper was designated in July 2011.

Because the tax abatement schedules for 2012-2016 have not yet been adopted by the Council, the sales agreement provides if 10 year/100% tax abatement is available, the project shall use tax abatement; if tax abatement is not available, the City will fund the equivalent amount of the tax abatement provided by another source for this residential project. The value of the tax abatement, based on an estimated assessed value of about \$9 million, is about \$400,000 annually for each of the ten years following the assessment of the completed improvements which is anticipated to be in late 2012/early 2013.

Funding : The Redeveloper has requested the following State of Iowa funding assistance:

- Enterprise Zone benefits (estimated to be about \$1 million with the rebate of sales tax and income tax credits); application sent to the State in October 2011 with IDED approving the award at its October 20, 2011 meeting with developer awaiting confirmation letter from IDED.
- Greyfield grant award for up to 15% of actual cost of hazardous material remediation; Redeveloper has been notified of an award of up to \$500,000 with IDED approving the award at its October 20, 2011 meeting with developer awaiting confirmation letter from IDED.
- State of Iowa Historical Tax credits (up to \$5 million for the initial award) which should be announced by the State on November 4, 2011. The Redeveloper made its development proposal contingent on the award of the tax credits and if the SHPO award is not made, can terminate the sales agreement with the City by November 30, 2011.

ADDITIONAL INFORMATION:

On December 9, 2010, the City obtained an emergency court order to enter the Des Moines Building to start the boiler system to keep the life safety systems working, including the sprinkler system. The Des Moines Building property is a key location for the skywalk system with its east-west and north-south skywalk corridors; a fire could have significant consequences on the adjacent skywalk-connected buildings.

The property had been for sale for several years but had not sold due to legal problems relating to its title from a long-standing mortgage foreclosure, the subsequent bank failure and the new mortgage holder, PNC Bank, ultimately indicating it was abandoning the building in late 2010.

In January 2011, the City Council authorized staff to obtain title to the Des Moines Building property. The City received title to the property from the Polk County District Court in late May and offered it for private redevelopment. In June, the Council received two redevelopment proposals. Both were contingent on receipt of historical tax credits with the award of the state tax historical tax credits anticipated to be in late October 2011.

The Council selected Nelson Development and Foutch Brothers, LLC, (with the understanding that a new legal entity comprised of the two firms would be created) to serve as the Preferred Redeveloper. Both have experience in renovating older office buildings into housing with commercial uses. Their proposal is to renovate the upper level office space to about 145 market-rate rental units and demolish the annex building on Locust Street to create outside seating for the adjacent restaurant and a new public access to the skywalk. They have nearly completed design plans and are working with the State Historical Office of Preservation for approval. It is anticipated the state tax credits awards will be announced within the next two weeks. Nelson Development and Foutch Brothers, LLC, have recently created Des Moines Apartments, LP, as the legal entity to serve as the Redeveloper.

Development Agreement

The proposed "Agreement for Sale of Real Estate" provides for the sale of the Des Moines Building property to Des Moines Apartments, LP, as the redeveloper and requires the redeveloper to take title to the property on or by November 15, 2011, subject to award of the state historical tax credits. This agreement requires the redeveloper to complete its renovation within the next two years, retain the building name as the "Des Moines Building" and to undertake demolition of the annex and construct the skywalk access. The agreement also provides financial assistance in the amount of 10 year/100% tax

abatement if the continuation of residential tax abatement for the downtown at the 10 year/100% schedule is not approved by the Council.

The City has previously granted access to the property by a license agreement in late August to permit the Redeveloper to undertake engineering and design plans and various environmental abatement items, at the redeveloper's risk, in order to allow required boiler repair to occur in a timely manner.

PREVIOUS COUNCIL ACTION(S):

Date: October 24, 2011

Roll Call Number: [11-1781](#)

Action: On conveyance of the Des Moines Building at 405 6th Avenue and 513 Locust Street to the Des Moines Apartments, LP, \$150,000, (11-7-11). ([Council Communication No. 11-658](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

Date: August 29, 2011

Roll Call Number: 11-1531

Action: License Agreement to allow Des Moines Apartments, LP (developer) access to the Des Moines Building. ([Council Communication No. 11-585](#)) **Moved by Mahaffey to adopt. Motion Carried 7-0.**

Date: July 11, 2011

Roll Call Number: 11-1251

Action: Designation of preferred developer as Nelson Development and Construction and Foutch Brothers, LLC for purchase and redevelopment of Des Moines Building, 405 6th Avenue and 513 Locust Street. Council Communication No. 11-467 **Moved by Hensley to adopt and request that the Developer keep the Des Moines Building name; refer to the City Manager to develop a timeline for construction. Motion Carried 7-0.**

Date: May 9, 2011

Roll Call Number: 11-0841

Action: Agreements with PNC Bank, N.A., for assignment of its claims and mortgage to the Des Moines Building at 405 6th Avenue and 513 Locust Street. Council Communication No. 11-283 **Moved by Hensley to adopt. Motion Carried 7-0.**

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. Action:**

BOARD/COMMISSION ACTION(S):

The Urban Design Review Board will make its recommendation on the proposed skywalk access to the City Council as part of its skywalk responsibilities within the next month.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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