

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	May 21, 2012
	Agenda Item No.	30
	Roll Call No.	<u>12-0791</u>
	Communication No.	<u>12-237</u>
	Submitted by:	Terrance N. Vorbrich, Acting Economic Development Administrator

AGENDA HEADING:

Resolution approving assignment of the Development Agreement for the Fleming Building, at 604 Walnut Street by ND 22 Fleming, LLC, to Bankers Trust Company as collateral for project financing.

SYNOPSIS:

On September 26, 2011, by Roll Call No. 11-1640, the City Council approved an Urban Renewal Development Agreement with ND 22 Fleming, L.L.C. (the "Developer"). The Developer has asked that the City consent to the assignment of the Developer's rights under the Development Agreement to Bankers Trust Company, as collateral for financing to be provided for the rehabilitation of the Fleming Building. The Office of Economic Development and City Legal staffs have reviewed the collateral assignment and recommend that the City consent to the assignment pursuant to the terms of the Collateral Assignment of Urban Renewal Development Agreement and the Consent to Assignment.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

On September 26, 2011, by Roll Call No. 11-1640, the City Council approved an Urban Renewal Development Agreement with ND 22 Fleming, L.L.C. (the "Developer"). The Developer agreed to rehabilitate and renovate floors 3 through 11 of the Fleming Building into approximately 96 residential units, to retain the commercial use of the first floor, and to have the option to retain the commercial use of the second floor or to convert it into approximately 15 additional apartments. The Developer has also agreed to upgrading the exterior appearance of the building and perform extensive renovation including asbestos abatement, new windows, new heating and cooling systems, new lighting and construction of a new internal stairwell, all to be in conformance with the proposed Conceptual Development Plan.

The Developer has asked that the City consent to the assignment of the Developer's rights under the Development Agreement to Bankers Trust Company as collateral for financing to be provided for the rehabilitation of the Fleming Building. The Office of Economic Development and City Legal staffs have reviewed the collateral assignment that allows for the bank to reassign the contract with City approval prior to the issuance and approval by the City of a certificate of completion and without City approval once the City has issued and approved a certificate of completion. Office of Economic Development and City Legal staffs recommend that the City consent to the assignment pursuant to the

terms of the Collateral Assignment of Urban Renewal Development Agreement and the Consent to Assignment therein, which are now on file and available for inspection in the office of the City Clerk.

Date: September 12, 2011

Roll Call Number: [11-1581](#)

Action: [Second](#) revised preliminary terms of Urban Renewal Development Agreement with ND 22 Fleming LLC for the historic adaptive reuse of the Fleming Building at 604 Walnut Street. ([Council Communication No. 11-597](#))

Date: July 11, 2011

Roll Call Number: [11-1207](#)

Action: [Preliminary](#) terms of Urban Renewal Development Agreement with ND Fleming, LLC for residential redevelopment of Fleming Building, 604 Walnut Street. ([Council Communication No. 11-456](#))

BOARD/COMMISSION ACTION(S):

Board: Urban Design Review Board

Date: September 20, 2011

Resolution Number: N/A

Action: Vice Chair Rypma clarified the action requested of the board. Motion by Todd and seconded by Garner to approve a letter of support for the revised financial assistance as proposed.

Board: Urban Design Review Board

Date: June 7, 2011

Resolution Number: N/A

Action: Motion by Garner that a third window option that replicates the original windows be presented to the National Park Service and that the board be provided a review of any changes recommended by the National Park service to the elevations in regard to fresh air intake. Seconded by Clark. Motion carried.

Board: Urban Design Review Board

Date: May 17, 2011

Resolution Number: N/A

Action: Clark motioned to approve the project's financial assistance request as requested and asked that the project come back at a later time with more design detail focusing on window treatment and landscaping. Seconded by Allen. Request and motion approved.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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