

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 27, 2015
	Agenda Item No. 48 Roll Call No. <u>15-1282</u> Communication No. <u>15-409</u> Submitted by: Matthew A. Anderson, Assistant City Manager

AGENDA HEADING

Public Hearing for July 27, 2015 on lease of 400-418 East Grand Avenue for surface parking use with Nelson Development, L.L.C. (Developer).

SYNOPSIS

Public hearing on the proposed lease of City-owned surface parking located at 400-418 East Grand Avenue with Nelson Development L.L.C. (Michael Nelson, President, Nelson Development, 216 6th Avenue, #200, Des Moines, IA 50309).

FISCAL IMPACT

Amount: \$321,120 to be paid as follows: \$105,120 prior to lease starting date of August 1, 2015, then monthly payments of \$9,000 per month for the term of the lease. If the lease is terminated prior to its expiration date of August 31, 2017, the Developer will continue to be responsible for payment of the remaining balance of back rent owed (\$108,000 after initial payment of \$105,120 paid prior to lease starting date of August 1, 2015). Additionally, the Developer paid back taxes due under the prior lease and is responsible for payment of taxes during the current lease terms.

Funding Source: Economic Development Enterprise Fund, SP743, CMO0980717. The Developer is responsible for the property taxes and maintenance costs during the term of this lease.

ADDITIONAL INFORMATION

Proposed Lease Terms

This lease addresses issues relating to previous unpaid rent and taxes while requiring the Developer to undertake the maintenance and operation of the property. It provides for a month-to-month lease for a two (2) year period extending from August 1, 2015 to August 31, 2017 with a 30-day termination if the City chooses to proceed with redevelopment of the site. The lease also provides for public parking from 5 p.m. onwards during the week and all day on weekends.

Prior to the start of the new lease, the Developer must pay all back taxes owed under the previous lease, which was done as of June 26, 2015. The City remains responsible for the payment of property taxes of approximately \$36,000 that accrued prior to the previous lease.

This proposed resolution allows the Developer to continue to meet his lease obligations for the continued tenancy by the State of Iowa Workforce Department and other entities located in the adjacent building at 430 East Grand Avenue.

Background

In 2003, the City acquired this vacant property located on the NE corner of East 4th Street and Grand Avenue for future redevelopment. At that time, the Developer asked if the site could be purchased to provide parking for the adjacent building that was being renovated and greatly expanded at 430 East Grand Avenue for a 10 year lease to 2015 for Iowa Workforce Department operations.

The City agreed to a lease, not purchase, of the site for surface parking uses because of its long-term intent to redevelop the site. The lease required the lot be open to the public after Monday - Friday work hours and on weekends. The Developer was responsible for construction of the lot and the costs of operation and maintenance. Once the Developer's loan cost for the parking improvements were paid off, projected to be in January 2011, a monthly payment of \$4,800 (160 spaces at \$30 per month) was to be made to the City.

In 2005, the Developer submitted the parking plan layout to the City for the needed permits. At that time, the City was in the process of adopting more rigorous landscaping requirements for surface parking and requested the Developer use the more rigorous standards for this lot. The Developer complied and the outcome was about 40 less spaces than the initial layout approved in the lease.

The 2009 lease renewal also did not address the revised site plan with 120 spaces that was actually built. This lease increased the parking rate to \$60 per space each month upon expiration of the Developer's loan payments and payment of property taxes for the improvements in June 2011.

In late 2011, the Developer requested a lease extension to 2015 so the parking lease would be concurrent with State of Iowa lease of 430 East Grand Avenue building. In addition, the Developer requested a revised rental rate based on credit for its property tax and maintenance expenses. The Developer provided documentation corroborating the loan payoff for the construction of the improvements that was completed in July 2011.

Agreement could not be reached on a number of items in 2011-12 so the former lease of 2009 has stayed in place with a month-to-month carryover.

The Developer has not paid rent or property taxes during that time period; this proposed lease requires payment of all back taxes owed, immediate payment of at least 50% of the back rent owed based on a proposed \$37.00 per month cost and payment of the remaining amount on a monthly basis.

PREVIOUS COUNCIL ACTION(S)

Date: July 13, 2015

Roll Call Number: [15-1145](#)

Action: [On](#) lease of 418 E. Grand Avenue to Nelson Development 10, LLC for continued surface parking use, (7-27-15). ([Council Communication No. 15-376](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: May 7, 2012

Roll Call Number: [12-0740](#)

Action: [Dismissing](#) public hearing regarding renewal of Parking Lease Agreement with Nelson Development, LLC for 418 East Grand Avenue. Moved by Meyer to adopt and receive and file. Motion Carried 7-0.

Date: April 23, 2012

Roll Call Number: [12-0644](#)

Action: [On](#) renewal of Parking Lease Agreement with Nelson Development, LLC for 418 East Grand Avenue. Moved by Meyer to adopt, and to continue the public hearing until May 7, 2012 at 5:00 PM. Motion Carried 7-0.

Date: March 12, 2012

Roll Call Number: [12-0421](#)

Action: [On](#) Renewal of Parking Lease Agreement with Nelson Development, LLC for 418 East Grand Avenue. ([Council Communication No. 12-120](#)) Moved by Meyer to adopt, and to continue the public hearing until April 23, 2012 at 5:00 PM. Motion Carried 7-0.

Date: February 27, 2012

Roll Call Number: [12-0283](#)

Action: [On](#) Renewal of Parking Lease Agreement with Nelson Development, LLC for 418 East Grand Avenue, (3-12-12). ([Council Communication No. 12-092](#)) Moved by Meyer to adopt. Motion Carried 7-0.

Date: August 10, 2009

Roll Call Number: [09-1490](#)

Action: [On](#) renewal of Parking Lease Agreement with Nelson Development, LLC at East Grand Avenue and East 4th Street. ([Council Communication No. 09-552](#)) Moved by Meyer to adopt. Motion Carried 7-0.

Date: July 27, 2009

Roll Call Number: [09-1319](#)

Action: [On](#) renewal of Parking Lease Agreement with Nelson Development, LLC at East Grand Avenue and East 4th Street, (8-10-09). ([Council Communication No. 09-512](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: December 22, 2003

Roll Call Number: 03-2941

Action: On lease of parking lot on the northeast corner of East 4th and Grand, to Nelson Development, L.L.C., for 160 parking spaces, \$4800 per month for 5 years. [Council Communication No. 03-603](#))
Moved by Brooks to adopt. Motion Carried 6-1. Absent: Vlassis.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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