

Date August 6, 2007

RESOLUTION ACCEPTING DEVELOPER-INITIATED DEVELOPMENT
PROPOSAL FROM NELSON DEVELOPMENT 15, L.L.C. TO DEVELOP
DISPOSITION PARCEL NO. 02-3 IN METRO CENTER URBAN RENEWAL PROJECT AND
APPROVING MINIMUM REQUIREMENTS AND
COMPETITIVE PROCESS FOR DEVELOPMENT

WHEREAS, on March 30, 2000 by Roll Call Nos. 00-788 and 00-789, the City Council of the City of Des Moines approved the Urban Renewal Plan for the Metro Center Urban Renewal Project (hereinafter referred to as "Plan"); and

WHEREAS, on June 17, 2002, by Roll Call No. 02-1596, the City Council adopted the Sixth Amendment to the Plan to designate properties within the 200-400 blocks of East Grand Avenue and East Locust Street for acquisition and disposition and to encourage redevelopment of such properties, including Disposition Parcel 02-3 located at 230 East Grand Avenue; and

WHEREAS, Nelson Development 15, L.L.C., an Iowa limited liability company, ("Developer") has presented to the City a developer-initiated proposal ("Proposal") to purchase and redevelop Disposition Parcel 02-3 ("Property"), which Proposal is on file in the Office of the City Clerk; and

WHEREAS, the Proposal and the proposed Urban Renewal Agreement for Sale of Land for Private Redevelopment ("Development Agreement") incorporated therein, tendered herewith and executed by the Developer, proposes construction of a six-story mixed-use building containing at least seventy-five (75) residential units and at least 12,200 square feet of area devoted for retail or restaurant uses; and

WHEREAS, the proposed development of the Property furthers the objectives of the Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents and maintain taxable values within the Urban Renewal Project area, to encourage the development of affordable housing in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area, to provide a variety of locations to serve the different housing markets within the Urban Renewal Project area, to encourage intensive and coordinated the mixed-use development of commercial, residential and parking improvements, to provide for the orderly expansion of downtown Des Moines as a retail, financial and business center of the metropolitan area, and to encourage the coordinated development of parcels and structures to achieve efficient building design and provision of adequate parking; and

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WHEREAS, the proposed economic development incentives for the proposed development to be provided by the City to Developer pursuant to the Urban Renewal Law and Chapter 15A of the Code of Iowa and Developer's obligations under the Development Agreement to construct the development will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the East Village area in accordance with the Plan; (ii) it will provide affordable housing in decent, safe and sanitary conditions in attractive settings to serve employees and other people who would like to live in the downtown area; (iii) it will encourage further private investment and will attract and retain residents and businesses in the Urban Renewal Project area to reverse the pattern of disinvestment and declining resident population; and, (iv) it will further the City's efforts to create and retain job opportunities within the Urban Renewal Project area which might otherwise be lost; and,

WHEREAS, the construction of the proposed development is a speculative venture and the public gains and benefits from the construction and resulting housing, commercial space, parking and development opportunities would not occur without the proposed economic incentives provided under the proposed Development Agreement and the public gains and benefits are warranted in comparison to the amount of economic incentives; and,

WHEREAS, City believes that the proposed development of the Property pursuant to the Proposal and proposed Development Agreement, and the approval of and fulfillment generally of the proposed Development Agreement, are in the vital and best interests of City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable state and local laws and requirements under which the project has been undertaken, and warrant the provision of the proposed economic assistance set forth in the proposed Development Agreement.

WHEREAS, said Proposal meets the Minimum Development Requirements of the City for such development and appears to be comprehensive in form and content as evaluated by City staff; and

WHEREAS, said Developer has submitted a good faith deposit in the amount of \$50,000 for the proposed development; and

WHEREAS, it is necessary and appropriate that the City Council take certain actions in accordance with Iowa Code Section 403.8 with respect to the Property in order to accept the Proposal for the development of the Property and give full and fair opportunity for other potential developers to submit a proposal for the development of the Property; and

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WHEREAS, City staff has prepared Minimum Development Requirements on file in the Office of the City Clerk, for determining qualified development proposals and selecting a development proposal; and

WHEREAS, this Council believes the acceptance of the Developer's Proposal to develop the Property and the advertisement for competing development proposals is in the best interests of the City of Des Moines, Iowa.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The Proposal, on file in the Office of the City Clerk, which includes the proposed Development Agreement executed by the Developer for development of the Property be and is hereby accepted and approved as to form for the purposes hereinafter stated.
2. For the purposes of defining the competitive bid process for purchase and development of the Property, said Proposal of Developer shall be deemed to be and to illustrate the minimum proposal acceptable to the City of Des Moines in terms of: general form of proposal and data required for competing proposals; Property description; purchase price, good faith deposit, time for commencement and completion of improvements; time permitted for conceptual development plan submission and review; development requirements for improvements; construction plans and certificate of completion; urban renewal covenants, permitted tax abatement, City economic development grant, remedies and all miscellaneous provisions.
3. The Minimum Development Requirements on file in the Office of the City Clerk are determined to meet the objectives and requirements of the Plan, as amended, and are hereby approved and adopted for use in the competitive bid process.
4. Competing proposals to the Developer's Proposal shall:
 - A. Provide a detailed description of the proposed development that shall indicate satisfaction of the Minimum Development Requirements.
 - B. Devise a proposed method and sources of financing which must be adequate to assure financing of the development in a timely manner.

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- C. Provide a good faith deposit in the amount of \$50,000 in acceptable form to the City of Des Moines.

- 5. It is hereby determined that the Developer possesses the qualifications and financial resources necessary to purchase and develop the Property in the manner stated in its Proposal and the proposed Development Agreement in accordance with the Plan.

- 6. It is hereby determined that the purchase price for the Property of \$638,000.00 to be paid by the Developer meets the fair market value thereof for uses in accordance with the Plan and shall be the established minimum sale price for the competitive bid process, taking into account the restrictions upon the Property and the terms, covenants, conditions and obligations assumed by the Developer for construction of building and related improvements on the Property in accordance with the terms of the proposed Development Agreement.

- 7. It is hereby determined that the \$1,224,000.00 economic development grant to be paid to Developer in installments in accordance with the terms and conditions of the proposed Development Agreement is warranted and it is appropriate that similar economic incentives as deemed appropriate by the City be made available for qualified competing proposals.

- 8. The City Clerk shall retain for public examination the Proposal and proposed Development Agreement executed by the Developer and in the event of no timely qualified competing proposals, the City Clerk shall submit the same to this Council for formal consideration, approval and execution at a public hearing at 5:00 p.m. during the regular City Council meeting of September 24, 2007.

- 9. The City Clerk shall be authorized to promptly publish the attached notice of the competitive bid process and the City's intent to accept the Developer's Proposal and to enter into the proposed Development Agreement if no competing proposals are received

- 10. The action of this City Council shall be considered to be and does hereby constitute final notice to all concerned of the intention of this City Council to give acceptance and approval of the Developer's Proposal to purchase and develop the Property and enter into the proposed Development Agreement with the Developer on September 24, 2007, in the event no competing proposals are received.

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11. This resolution, the Proposal and proposed Development Agreement shall be on file at the Office of the City Clerk, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
12. Approval and acceptance of the Developer's Proposal is conditioned upon there being no better proposal submitted by a competitor for the development of the Property within the period hereinafter stated.
13. This competitive bid process, conducted in accordance with the terms of this resolution, is hereby determined to comply with the provisions of Iowa Code Section Chapter 403.8(2), requiring "reasonable competitive bidding procedures" for the sale of the Property and this competitive bid process is hereby determined to be the appropriate method for making the Property available for development in accordance with the Plan.
14. The submittal of proposals and statements by the competing developers, including the form of Development Agreement executed by competing developers, shall be in substantial conformity with the provisions of this resolution.
15. All inquiries regarding the terms and conditions of this competitive bid process must be submitted in writing to the Office of Economic Development, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, 50309. All responses to inquiries shall be made in writing and will be kept on file at the Office of the City Clerk and the Office of Economic Development, City Hall. No written inquiries shall be accepted after 5:00 p.m. on September 4, 2007.
16. Written competing proposals for the purchase and development of said Property must be received in the Office of Economic Development on or before 1:00 p.m., September 10, 2007. Said proposals shall be received in the Office of Economic Development located in the City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. Each proposal will then be publicly viewed and considered by the Urban Design Review Board at a special meeting on September 18, 2007.

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17. The Office of Economic Development staff is directed to receive competing proposals for the purchase and development of said Property and prepare a report on each competing proposal for the Urban Design Review Board. The Urban Design Review Board shall at its special meeting at 7:30 a.m. on September 18, 2007, review each proposal and the Board is authorized and directed to make an analysis of each proposal for compliance with the requirements hereinabove stated and for evaluating the quality of the proposal in view of the following criteria by which each proposal will finally be evaluated by this Council, to wit:
 - A. The degree to which the proposal meets the objectives and requirements of the Plan, as amended, as reflected by the adopted Minimum Development Requirements.
 - B. The ability of the competing developer to commence and complete the redevelopment activity in an expeditious and timely manner.
 - C. Ambiguity or lack of information in the proposal shall be judged negatively.

The Urban Design Review Board shall then forward its recommendations to the City Council.

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18. If one or more competing proposals are received, the City Council will take action to select a proposal and approve sale of the Property at a regular meeting following receipt of recommendations from the Urban Design Review Board.

(Council Letter No. 07- 473 Attached)

Moved by _____ to adopt.

APPROVED AS TO FORM:



Michael F. Kelley
Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

.....
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

EXHIBIT 'A'**Minimum Development Requirements**1. **Mixed-Use Building.**

The Improvements shall include a mixed-use building of at least six (6) stories in height. The first floor space shall be utilized for retail and restaurant use. Net leaseable first floor commercial space shall be at least 12,200 square feet. All upper floors shall contain residential apartments. The building shall contain a total of at least seventy-five (75) residential units.

2. **Parking.**

The Improvements shall include on-site surface parking containing at least sixty (60) parking spaces.

3. **Building Design.**

The Improvements shall utilize building materials and be built in conformance with the Eastern Gateway District Area "1" Design Guidelines as adopted by the City Council on May 19, 2003, by Roll Call No. 03-1176. Said Guidelines pertaining to new construction are attached and incorporated in Developer's Proposal.

4. **Sidewalk, Streetscape, and Landscaping.**

The Improvements shall include new paved sidewalk, streetscape and landscape improvements on all street right-of-way adjacent to the property lines of the Property. The area between the surface parking spaces and the building shall include appropriate landscaping. All sidewalk, streetscape and landscape improvements shall be constructed or installed in accordance with the requirements of the "Des Moines Landscape Design Standards" and shall include trees approved by the City Arborist and shrubs and vegetative ground cover approved by the City Horticulturist. All sidewalk, streetscape and landscape improvements shall be planned and coordinated with the City Engineering Department and City Arborist to address planting details for trees, appropriate sight lines, maintenance issues and City utility location coordination and shall be addressed as part of the Site Plan and Conceptual Development Plan review process.

5. **Equipment and Trash Enclosures.**

All equipment and trash containers shall be located within the building or within fully screened enclosures constructed of materials similar to the building materials and set back a sufficient distance from the street right-of-way.

6. **Signage.**

All signage shall comply with the "D-R" Downtown Riverfront District regulations of the City's Zoning Ordinance and be appropriate to and compatible with the architecture of the Improvements and the surrounding area. The Developer shall prepare a comprehensive graphics package for exterior signs and images as part of the submitted Conceptual Development Plan.

7. **Lighting.**

All exterior lighting must be designed in a manner that does not intrude upon existing and planned residential uses in the area. The Developer shall prepare a comprehensive lighting plan that indicates lighting design layout and levels of illumination as part of the submitted Conceptual Development Plan.

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July 24, 2007

**RE: Approval of Financial Assistance for 230e Grand Project
230 E. Grand Avenue**

To Members of the City Council:

The Urban Design Review Board, at its July 24, 2007 meeting, has approved the proposed use of Tax Increment Financing from the Metro Center Urban Renewal District to support the 230e Grand mixed-use project. Financial assistance not to exceed \$1,224,000 was approved for the \$11.9 million project. The Board moved to approve the project by a 6-0 vote. Board Member Jake Christensen, project developer, recused himself from the discussion and vote.

Sincerely,



Todd Garner, Chair
Urban Design Review Board



URBAN DESIGN REVIEW BOARD

CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1891
(515) 283-4004

All American City 1949, 1976, 1981