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**Date** October 24, 2011

SET DATE OF PUBLIC HEARING FOR THE SALE OF THE DES MOINES  
BUILDING PROPERTY AT 405 6TH AVENUE AND 513 LOCUST STREET TO  
DES MOINES APARTMENTS, LP.

WHEREAS, on January 10, 2011, by Roll Call No. 11-040, the City Council of the City of Des Moines declared the Des Moines Building at 405 6th Avenue and 513 Locust Street, more specifically described as follows:

Lots 3 and 4, in Block C, in Commissioner's Addition to Fort Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

to be a public nuisance and authorized the Legal Department to pursue a court order for the abatement of such nuisance, declaring the building abandoned, and awarding title to the City; and,

WHEREAS, on February 28, 2011, by Roll Call No. 11-0370, in anticipation that the City would be awarded title to the Des Moines Building, the City Council authorized and directed the City Manager to solicit proposals for the acquisition and private redevelopment of the Des Moines Building; and,

WHEREAS, the City was awarded title to the property containing the Des Moines Building by an order entered by the Polk County District Court on May 26, 2011, in Case No. CD61147; and,

WHEREAS, in response to the City's solicitation for proposals for the redevelopment of the Des Moines Building, Nelson Development and Construction and Foutch Brothers, LLC, ("Nelson Foutch") submitted a *Proposal to Acquire and Redevelop the Des Moines Building, 405 6th Avenue and 513 Locust Street* dated June 15, 2011 (the "Redevelopment Proposal"); and,

WHEREAS, on July 11, 2011, by Roll Call No. 11-1251, the City Council of the City of Des Moines approved the Redevelopment Proposal and selected Nelson Foutch or their designee as the Preferred Redeveloper; and,

WHEREAS, Nelson Foutch have organized Des Moines Apartments, LP, to serve as their designee for the acquisition and redevelopment of the Des Moines Building in conformance with their Redevelopment Proposal; and,

WHEREAS, the City Manager has negotiated the following proposed agreements with Des Moines Apartments, L.P. (the "Redeveloper"), which are on file and available for inspection by the public in the office of the City Clerk:

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- a) *Agreement for Sale of Real Estate* which provides for the sale to Redeveloper of the Des Moines Building property for a purchase price of \$150,000, and an undertaking by the Redeveloper to renovate and rehabilitate the property for commercial and residential use in conformance with the Redevelopment Proposal.
- b) *Easement for Building Encroachments* which provides for the conveyance of an easement for the continued use and maintenance of the existing underground vaults and building encroachments which extend from the Des Moines Building into the adjoining public rights-of-way.
- c) *Agreement for Assignment and Assumption of Skywalk Agreement and Lease Agreement* whereby Des Moines Apartments, LP, assumes the rights and obligations held by the former owners of the Des Moines Building to use and maintain the Skywalk Corridors within the Des Moines Building and within the vacated air rights over the east/west alley lying north of and adjoining the Des Moines Building.

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

- 1. The City of Des Moines hereby declares its intent to consider approving the sale and conveyance of the Des Moines Building in accordance with the terms of the *Agreement for Sale of Real Estate*, the *Easement for Building Encroachments* and the *Agreement for Assignment and Assumption of Skywalk Agreement and Lease Agreement* as described above, and to consider vacating the subsurface areas within the adjoining portions of 6th Avenue and the East/West alley occupied by the underground vaults and encroachments from the Des Moines Building, at a public hearing to be held at 5:00 p.m. on November 7, 2011, in the Council Chambers at City Hall.
- 2. The City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached all in accordance with § 362.3 and §364.7 of the Iowa Code.

( Council Communication No. 11- 658 )

MOVED by \_\_\_\_\_ to adopt.

Date October 24, 2011

FORM APPROVED:

\_\_\_\_\_  
 Roger K. Brown  
 Assistant City Attorney  
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- Attachments:  
 Agreement for Sale of Real Estate  
 Easement for Building Encroachments  
 Agreement for Assignment and Assumption  
 Notice of Hearing

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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