



Date October 8, 2012

APPROVAL OF \$3,000,000 COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY LOAN AND CONTRACT DOCUMENTS WITH DES MOINES APARTMENTS, LP FOR DEVELOPMENT OF 136 APARTMENTS AT 405 6TH AVENUE AND 513 LOCUST STREET AND AUTHORIZATION FOR EXTENSION OF PROJECT COMPLETION DATE

WHEREAS, on November 7, 2011 by Roll Call 11-1898, the City Council of the City of Des Moines held a public hearing for the conveyance of the Des Moines Building property at 405 6th Avenue and 513 Locust to Des Moines Apartments, LP for the development of commercial and residential units (“the project”) wherein the City Council approved inter alia, the Agreement for Sale of Real Estate with a completion date for the project of October 31, 2013 and

WHEREAS, the Managing Partners of Des Moines Apartments, LP 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, Missouri. The Managing Partners will be responsible for redevelopment and long term management of the building; and

WHEREAS, by Roll Call 12-0660 at a May 3, 2012 Special Council meeting, the City of Des Moines authorized submittal of four (4) multi-family housing development proposals to the Iowa Economic Development Authority (IEDA) in response to a notification from IEDA of availability of funds for production of new multi-family rental units; and

WHEREAS, the Des Moines Building Apartments was one of the proposals submitted to IEDA and the City was notified on July 13, 2012 that the City was awarded \$3,000,000 in funds for the development of apartments in this building; and

WHEREAS, the Urban Design Review Board approved the design of the building, plaza area, and skywalk entrance at its August 21, 2012 meeting; and

WHEREAS, on August 27, 2012 by Roll Call 12-1349 the City of Des Moines amended the Community Development Block Grant-Disaster Recovery Contract (08-DRH-209) between IEDA and the City to accept the award for the Des Moines Building Project;

WHEREAS, the City will now enter into a loan agreement with the developer of the Des Moines Apartments, LP for use of \$3,000,000 for construction; and

WHEREAS, the development will be 136 units with 70 units reserved for households below 80% of median income for a period of ten years with rents at or below the 65% HOME program rents; and

WHEREAS, due to the complexities and time required to finalize the necessary financing for this project, it is appropriate to amend the date for completion contained in Section 2.1. of the Agreement for Sale of Real Estate to June 30, 2014; and

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WHEREAS, the City Manager, pursuant to Roll Call No. 11-1898 which authorizes him to administer the Agreement for Sale of Real Estate, has determined that the developer has timely and diligently pursued the necessary actions to obtain sufficient financing to undertake this project; and

WHEREAS the loan agreement is structured as a non-receding lien for a period of ten years at which point it is forgiven in full if all the conditions of the funding are met per the requirements of Community Development Block Grant Disaster Recovery Contract (08-DRH-209); and

WHEREAS, the investor in the Historic Tax Credits, Chevron (Peter Dufley, Womble, Carlyle, Sandridge & Rice, LLP 150 Fayetteville Street, Raleigh NC, 27601) has requested each lender in the project to execute a Subordination, Nondisturbance and Attornment Agreement that creates a master lease with the tax purchaser for a period of 66 months; and

WHEREAS the UNION BANK & TRUST COMPANY, having an address at 11460 Tomahawk Creek Parkway, Leawood, Kansas 66211, a lender for the projects requires a subordination agreement with the city; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the City Council authorizes the City Manager to extend the completion date of the project to June 30, 2014, approves the loan documents between the City of Des Moines and Des Moines Apartments, LP and approves the Subordination, Nondisturbance and Attornment Agreement between the City and Chevron and Subordination agreement between Union Bank & Trust Company and the City, all on file in the City Clerk's office, and authorizes the execution of such documents by the Director of the Community Development Department conditional on final environmental approval by the U.S. Department of Housing and Urban Development.

(City Council Communication No. 12-530)

FORM APPROVED:

Moved by _____ to adopt.



Michael F. Kelley
Assistant City Attorney

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