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Date February 25, 2013

RESOLUTION APPROVING AMENDED AND RESTATED URBAN RENEWAL DEVELOPMENT AGREEMENT WITH HUBBELL REALTY COMPANY, HUBBELL TERMINAL CORPORATION, AND 510 SW 9th STREET, LLC, FOR THE REDEVELOPMENT OF THE PROPERTY BOUNDED BY DART WAY AND SW 9TH, SW 11TH AND MURPHY STREETS FOR A MIXED USE DEVELOPMENT, AND APPROVING PROPOSED CONCEPTUAL DEVELOPMENT PLAN

WHEREAS, Hubbell Terminal Corporation and 510 SW 9th Street, LLC, are the sole owners of the "Property" bounded by Dart Way and SW 9th, SW 11th and Murphy Streets; and,

WHEREAS, on November 21, 2005, by Roll Call No. 05-2793, the City Council approved an Urban Renewal Development Agreement and a Brownfields Cleanup Revolving Loan Fund Loan Agreement (the "Brownfield Loan Agreement") with Hubbell Realty Company and Hubbell Terminal Corporation (hereinafter collectively referred to as "Hubbell") for the redevelopment of a portion of the Riverpoint West Area, including the Property; and,

WHEREAS, pursuant to the Urban Renewal Development Agreement, as amended by the First Amendment to Urban Renewal Development Agreement dated May 19, 2008, (collectively the "Original Development Agreement"), Hubbell agreed to remediate the hazardous environmental conditions then existing upon a larger tract which included the Property, and agreed to redevelop the Property with three new buildings containing about 143,000 square feet for flex space and commercial office use; and the City agreed to provide an Economic Development Grant and Supplemental Economic Development Grant to Hubbell, to be paid in up to 30 semi-annual installments equal to 50% of the total ad-valorem tax revenues collected in the preceding six months on the incremental taxable value of the Property, with the total amount of all such installments capped at the actual approved remediation costs incurred by Hubbell and not payable from funds then in escrow for that purpose, all as more specifically described in the Original Development Agreement; and,

WHEREAS, pursuant to the Brownfield Loan Agreement, the City agreed to advance a loan in the amount of \$1,007,800.00 to Hubbell for payment of eligible costs incurred by Hubbell to remove and remediate the hazardous environmental conditions previously existing upon a larger tract which included the Property described above, and Hubbell agreed to repay such loan with interest at 0.5% per annum on a payment schedule that was anticipated to be funded by Hubbell from the semi-annual installments on the economic development incentives it was to receive under the Original Development Agreement, all as more specifically described in the Brownfield Loan Agreement; and,

WHEREAS, pursuant to the prior agreements identified above:

- a) City advanced \$1,007,800 to Hubbell pursuant to the Brownfield Loan Agreement.

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- b) Hubbell incurred \$178,000 in Excess Approved Remediation Costs as defined in the Original Development Agreement;
- c) Hubbell obtained a No Further Action Certificate from the Iowa Department of Natural Resources pursuant to the Original Development Agreement evidencing the satisfactory completion of the planned environmental remediation of the Property.
- d) The Property remains vacant land and is not generating any incremental tax revenues for the payment of installments on the Economic Development Grant and Supplemental Economic Development Grant pursuant to the Original Development Agreement.

WHEREAS, on September 10, 2012, by Roll Call No. 12-1470, the City Council authorized the City Manager to negotiate with Hubbell Realty Company for a final development agreement for City financial assistance for the proposed redevelopment of the Property for a mixed use development to be known as the "CityVille Development" upon terms consistent with those set forth in Council Communication No. 12-492; and,

WHEREAS, the City Manager has negotiated an Amended and Restated Urban Renewal Development Agreement (the "Amended Agreement") with Hubbell and 510 SW9th Street, LLC, which is on file in the office of the City Clerk, and amends and restates the prior agreements identified above to redefine the Improvements to be constructed by Hubbell upon the Property to match the proposed CityVille Development, and to reschedule the payment by City of the installments on the Economic Development Grants, and the payment by Hubbell of the installments due under the Brownfield Loan Agreement all as more specifically described in the accompanying Council Communication; and,

WHEREAS, on January 15, 2013, the Urban Design Review Board voted to recommend approval of the Amended Agreement and the Conceptual Development Plan for the Improvements; NOW THEREFORE,

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

1. The City Council hereby makes the following findings in support of the Amended Agreement:
 - a) The Property is located in a part of the Metro Center Urban Renewal Area known as the Riverpoint West Area which is characterized by underutilized and vacant land and a pattern of disinvestment and declining employment.
 - b) Hubbell's obligations under the Amended Agreement to construct the Improvements furthers the objectives of the Metro Center Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of

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- City residents and maintain taxable values and employment opportunities within the Metro Center Urban Renewal Area; and,
- c) The economic development incentives for the development of the Improvements as defined in the Amended Agreement shall be provided by the City to Hubbell pursuant to the Iowa Urban Renewal Law and Chapter 15A of the Code of Iowa and Hubbell's obligations under the Amended Agreement to construct the Improvements will generate the following public gains and benefits: (i) it will advance the improvement and redevelopment of the Riverpoint West Area in accordance with the Metro Center Urban Renewal Plan; (ii) it will encourage further private investment and will attract and retain other businesses in the Riverpoint West Area to reverse the pattern of disinvestment and declining employment in the area; (iii) it will facilitate the redevelopment of other portions of the Riverpoint West Area for residential use by introducing housing into the Riverpoint West Area; and, (iii) it will further the City's efforts to create and retain job opportunities within the Riverpoint West Area and the Urban Renewal Area which might otherwise be lost; and,
 - d) The construction of the Improvements is a speculative venture and the construction and resulting employment and redevelopment opportunities will not occur without the economic incentives provided by the Amended Agreement; and,
 - e) The construction of the Improvements pursuant to the Amended Agreement is 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 economic assistance set forth in the Amended Agreement.
2. The Conceptual Development Plan for the Improvements to the Property submitted by Hubbell Realty Company, which is Exhibit "C" to the Amended Agreement, is hereby approved,
 3. The Amended and Restated Urban Renewal Development Agreement between the City and Hubbell Realty Company, Hubbell Terminal Corporation, and 510 SW 9th Street, LLC, is hereby approved.
 4. The Mayor and City Clerk are hereby authorized and directed to execute the Amended Agreement on behalf of the City of Des Moines.
 5. Upon requisition by the City Manager or the City Manager's designee, the Finance Department shall advance the installments on the Economic Development Grant pursuant to Article 4 of the Amended and Restated Urban Renewal Development Agreement.

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Roll Call Number

Agenda Item Number

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(Council Communication No. 13- 098)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown
Assistant City Attorney
Eco Dev\Cityville\RC Approve Dev Agr.docx

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