

Date July 27, 2015

**HEARING ON LEASE OF 418 E. GRAND AVENUE TO
NELSON DEVELOPMENT 10, L.L.C., FOR CONTINUED SURFACE PARKING USE**

WHEREAS, on December 22, 2003, by Roll Call No. 03-2941, the City Council approved a lease agreement with Nelson Development, L.L.C. for City-owned property on the northeast corner of E. 4th and Grand (“Leased Premises”) for the purpose of parking lot usage, which lease was renewed on August 10, 2009 by Roll Call No. 09-1490 and thereafter has continued on a monthly holdover basis; and

WHEREAS, City staff and Nelson Development 10, L.L.C. (“Nelson Development”), successor to Nelson Development, L.L.C., have negotiated a Parking Lease Agreement, as on file in the office of the City Clerk, which provides in part that Nelson Development’s use of the Leased Premises will be extended on a month-to-month basis until August 31, 2017, or earlier termination at the City’s discretion, for fair market rent of \$4,500 per month, subject to Nelson Development’s compliance with the terms of said Lease; and

WHEREAS, said Lease terms include, but are not limited to, the obligation of Nelson Development to pay all delinquent taxes owed by Nelson Development for the Leased Premises to the Polk County Treasurer, which payment was made on June 26, 2015, and to pay \$105,120 of the outstanding rent due to the City for the Leased Premises by August 1, 2015, and to pay the remaining \$108,000 of the outstanding rent due to the City for the Leased Premises over the duration of the Lease at the rate of \$4,500 per month in addition to the monthly rental payments; and

WHEREAS, there is no currently planned City need or benefit for the real property to be leased, and the City will not be inconvenienced by the lease of the Leased Premises subject to the terms and conditions set forth herein and in the Lease; and

WHEREAS, on July 13, 2015, by Roll Call No. 15-1145, it was duly resolved by the City Council that the proposed conveyance of a Lease for City-owned real property located at 418 E. Grand Avenue to Nelson Development be set down for hearing on July 27, 2015, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of the proposal was published as provided by law in the Des Moines Register, setting forth the time and place for hearing on the proposal; and

WHEREAS, in accordance with City Council direction, those interested in this proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed Parking Lease Agreement, as described herein, are hereby overruled and the hearing is closed.
2. There is no current public need for the real property described below and the public would not be inconvenienced by reason of the proposed lease of City-owned property at the northeast corner of E. 4th and Grand, locally known as 418 E. Grand Avenue and legally described as follows, to Nelson Development 10, L.L.C. on a month-to-month basis from August 1, 2015 to August 31, 2017, at the monthly rental rate of \$4,500, pursuant to the terms and conditions set forth herein above and included in the Parking Lease Agreement:

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Lot 3 (except the West 19.9 feet on the South line and the West 20 feet on the North line) and all of Lots 4 and 5, and all of the East/West alley right-of-way lying North of and adjoining said Lot 3 (except the West 20.0 feet thereof) and lying North of and adjoining said Lots 4 and 5 in Block 10, East Fort Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the Parking Lease Agreement between the City and Nelson Development 10, L.L.C., for the above-described property is hereby approved, the Mayor is authorized and directed to sign said Lease, and the City Clerk is authorized and directed to attest to the Mayor's signature on the Lease.
4. The City Clerk is authorized and directed to forward the original of the Lease, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the City Manager's Office for the purpose of causing the Lease to be recorded.
5. The City Manager and/or his designee are hereby authorized and directed to administer and monitor said Lease, and, if needed, to proceed with and execute documents and pursue remedies pertaining to the termination of the Lease and collection of all amounts due thereunder, including but not limited to back-payments owed to the City, if Nelson Development 10, L.L.C. fails to fulfill the contract terms required therein, following approval as to form of the City's Legal Department.
6. Lease proceeds will be deposited into the following account: Economic Development Enterprise Fund, SP743, CMO0980717.

(Council Communication No. 15- 409)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

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.

MOTION CARRIED APPROVED

 Mayor

 City Clerk