

Date November 21, 2016

**RESOLUTION ACCEPTING REVISED DEVELOPMENT PROPOSAL FROM MARKET DISTRICT ONE, LLC TO DEVELOP CITY-OWNED PROPERTY AT 401 SE 6TH STREET AND 400 SE 7TH STREET IN THE METRO CENTER URBAN RENEWAL AREA, AND SETTING DATE OF PUBLIC HEARING**

**WHEREAS**, on March 20, 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, and such Plan has been amended eighteen times (the urban renewal plan as so amended is herein referred to as the “Plan”), encompassing an irregularly shaped area that includes the downtown core and the areas surrounding the downtown core; and

**WHEREAS**, on October 10, 2016, by Roll Call No. 16-1721, the City Council authorized the City Manager to negotiate an urban renewal development agreement based on preliminary terms of agreement with Market One, LLC n/k/a Market District One, LLC, represented by Frank Levy, Partner (“Developer”), for sale of City-owned property located at the intersections of SE 6<sup>th</sup> Street and East Martin Luther King Jr. Parkway, locally known as 401 SE 6<sup>th</sup> Street and 400 SE 7<sup>th</sup> Street (collectively “Property”) and located in the Market District, for development of a 4-story, estimated 58-unit multi-family residential building and parking lot for residents; and

**WHEREAS**, on November 7, 2016, by Roll Call No. 16-1904, the City Council accepted the development proposal from Market District One, LLC to develop the Property and set a date of public hearing on said proposal and Development Agreement associated therewith; and

**WHEREAS**, thereafter, the City’s Engineering Department determined that a small portion of the right-of-way proposed to be sold to the Developer needed to be retained by the City for future public use, and thus the development proposal has been revised as set forth herein and in the Development Agreement to reflect the revised purchase price and legal description for the Property, and the revised amounts of the good faith deposit and Economic Development Forgivable Loan; and

**WHEREAS**, the Developer and City staff have negotiated an Urban Renewal Agreement (“Development Agreement”) for Developer to purchase and develop the Property, which Development Agreement is in substantially the form on file in the office of the City Clerk; and

**WHEREAS**, the Development Agreement, tendered herewith as executed by the Developer, proposes development of the Property as follows:

1. Purchase from the City and development of the Property, consisting of approximately 45,067 square feet of land and legally described as follows, for the above-described residential housing project:  
PARCEL 2016-55  
LOTS 1, 9, AND 10, A PORTION OF LOT 2, THE VACATED NORTH - SOUTH ALLEY WEST OF AND ADJACENT TO SAID LOTS 9 AND 10, ALL IN BLOCK 42, TOWN OF DE MOINE , AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA; VACATED EAST ML KING JR PARKWAY SOUTH OF AND ADJOINING SAID LOTS 2 AND 9 AND THE INTERVENING ALLEY; VACATED RACCOON STREET NORTH OF AND ADJOINING SAID LOTS 1 AND 10 AND INTERVENING ALLEY; VACATED SE 7TH STREET BETWEEN RACCOON STREET AND EAST MARTIN LUTHER KING JR PARKWAY, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING

Date November 21, 2016

-2-

AT THE NORTHWEST CORNER OF LOT 1 IN BLOCK 42 OF SAID TOWN OF DE MOINE; THENCE N30°00'30"E, A DISTANCE OF 8.51 FEET; THENCE N74°57'52"E, A DISTANCE OF 321.96 FEET; THENCE S14°53'27"E, A DISTANCE OF 139.84 FEET; THENCE S74°57'52"W, A DISTANCE OF 277.81 FEET; THENCE NORTHWESTERLY ALONG A 77.50 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A DISTANCE OF 56.76 FEET, SAID CURVE HAVING A CHORD BEARING OF N79°48'35"W AND A CHORD DISTANCE OF 55.50 FEET TO THE WEST LINE OF LOT 2 IN BLOCK 42 OF SAID TOWN OF DE MOINE; THENCE N14°49'54"W ALONG THE WEST LINE OF LOTS 2 AND 1 IN BLOCK 42 OF SAID TOWN OF DE MOINE, A DISTANCE OF 110.18 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 1.035 ACRES (45,067 SQUARE FEET). SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

2. Initial Economic Development Grant in the amount of \$125,000.00, to be paid within 30 calendar days of the date of issuance of the Certificate of Completion for the Improvements.
3. Supplemental Economic Development Grant to be paid in 10 semi-annual installments, providing a declining percentage of project generated tax increment (TIF) funding starting at 70 percent in the first year of grant payments and declining to 35 percent in the fifth year of grant payments, in the estimated total amount of \$320,000.00.
4. Economic Development Forgivable Loan in the amount of \$44,281.00, advanced at the time of closing on Developer's purchase of the Property and equaling the amount of alley and Raccoon Street and SE 7<sup>th</sup> Street right-of-way to be incorporated into the Property, which loan shall be forgiven if Developer constructs the required Improvements and qualifies for issuance of the Certificate of Completion.

**WHEREAS**, said Development Agreement provides that the Developer will purchase the Property for the Purchase Price of \$376,309.00, subject to closing credit, if applicable, in an amount not to exceed \$30,000.00 and equaling the lowest of three independent bids estimating the cost of environmental remediation on the Property required by the Iowa Department of Natural Resources (IDNR); and

**WHEREAS**, the proposed development of the Property furthers the objectives of the Plan to provide a range of 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 advance the improvement and redevelopment of the Project Area in accordance with the Urban Renewal Plan; to encourage further private investment to reverse the pattern of disinvestment and declining property values in the surrounding area; and to further the City's efforts to retain and create job opportunities within the Project Area which might otherwise be lost; and

**WHEREAS**, City believes that the redevelopment of the Property pursuant to the proposed Development Agreement, and the 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

**WHEREAS**, prior to hearing on the sale and Development Agreement, Developer will submit a good faith deposit in the amount of \$37,630.00 for the Property; and

Date November 21, 2016

-3-

**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

**WHEREAS**, the City Council believes that the acceptance of the Developer's proposal and the Development Agreement 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, as follows:

1. The Developer's proposal, which includes the terms set forth in Council Communication No. 16-592, received and filed on October 10, 2016 by Roll Call No. 16-1721, and further includes the proposed Development Agreement in substantially the form on file with the City Clerk for development of the Property (hereinafter collectively "Proposal"), be and is hereby accepted and approved as to form for the purposes hereinafter stated, in lieu of the proposal and Agreement accepted on November 7, 2016 by Roll Call No. 16-1904.
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 plan submission and review; development requirements for improvements; construction plans and certificate of completion; urban renewal covenants; remedies and all miscellaneous provisions.
3. Competing proposals to the Developer's Proposal shall:
  - A. Provide a detailed description of the proposed development that shall be substantially similar to or superior than the developer proposed by Developer.
  - B. Devise a proposed method and sources of financing which must be adequate to assure financing of the development in a timely manner.
  - C. Provide a good faith deposit in the amount of \$37,630.00 for the Property, in acceptable form to the City of Des Moines.
4. 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.
5. It is hereby determined that the purchase price for the Property of \$376,309.00, 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 sales price for the competitive bid process, taking into account the restrictions upon the Property, the terms, covenants, conditions and obligations assumed by the Developer for construction of the improvements on the Property in accordance with the terms of

Date November 21, 2016

-4-

the proposed Development Agreement, and the proposed credit for environmental remediation as described above.

6. The City Clerk shall retain for public examination the Proposal and proposed Development Agreement in substantially the form on file and in the event of no timely qualified competing proposals, the City Clerk and staff shall submit the same to this Council for formal consideration, approval and execution at a public hearing at 5:00 p.m. in the Richard A. Clark Municipal Service Center (MSC), located at 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa, during the regular City Council meeting of January 9, 2017. Said public hearing shall be held in lieu of the public hearing scheduled for December 19, 2016 by Roll Call No. 16-1904.
7. The City Clerk shall be authorized to publish, no later than December 8, 2016, 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.
8. This resolution, the Proposal and proposed Development Agreement shall be on file at the office of the City Clerk, mailing address: 400 Robert D. Ray Drive, Des Moines, Iowa; physical address: City Administration Building, Capitol Center III, 400 E. Court Avenue, Des Moines, Iowa.
9. 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.
10. 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 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.
11. The submittal of proposals and statements by competing developers, including the form of Development Agreement executed by competing developers, shall be in substantial conformance with the provisions of this resolution.
12. All inquiries regarding the terms and conditions of this competitive bid process must be submitted in writing to the Office of Economic Development, mailing address: Office of Economic Development, 400 Robert D. Ray Drive, Des Moines, Iowa; physical address: Office of Economic Development, City Administration Building, Capitol Center III, 400 E. Court Avenue, Des Moines, Iowa. All responses to inquiries shall be made in writing and will be kept on file at the Office of the City Clerk, City Administration Building (Capitol Center III), and the Office of Economic Development, City Administration Building (Capitol Center III). No written inquiries shall be accepted after 5:00 p.m. on December 26, 2016.
13. Written competing proposals for the purchase and development of the Property must be received in the Office of Economic Development on or before 1:00 p.m., January 4, 2017. Said proposals shall be received in the Office of Economic Development located in: mailing address: 400 Robert D. Ray Drive, Des Moines, Iowa; physical address: City Administration Building, Capitol Center

Date November 21, 2016

-5-

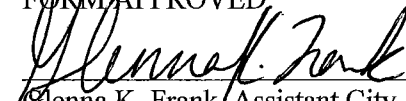
III, 400 E. Court Avenue, Des Moines, Iowa. Each proposal will then be submitted to City Council at the public hearing on January 9, 2017.

14. The Office of Economic Development staff is directed to receive competing proposals for the purchase and development of the Property and prepare a report on each competing proposal for the City Council, regarding the following, to wit:
  - A. The degree to which the proposal meets the objectives and requirements of the Plan, as amended.
  - B. The ability of the competing developer to commence and complete the development activity in an expeditious and timely manner.
  - C. Ambiguity or lack of information in the proposal shall be judged negatively.
  
15. Following public hearing on January 9, 2017, as set herein above, the City Council may take action to select the Developer's Proposal, a competing proposal, or no proposal, and to approve sale of the Property.

(Council Comm. No. 16-668)

MOVED BY \_\_\_\_\_ to adopt.

FORM APPROVED:

  
 \_\_\_\_\_  
 Glenna K. Frank, Assistant City Attorney

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