

Date March 14, 2011

RESOLUTION APPROVING AMENDED AND RESTATED URBAN  
DEVELOPMENT ACTION GRANT: CITY/DEVELOPER LOAN AGREEMENT  
AND THIRD AMENDMENT TO OPEN-END SECOND MORTGAGE AND  
SECURITY AGREEMENT FOR THE KALEIDOSCOPE

WHEREAS, on January 16, 1984, by Roll Call No. 276, the City Council approved an *Urban Development Action Grant: City/Developer Loan Agreement* (the "Loan Agreement") and an *Open-End Second Real Estate Mortgage* (the "Mortgage") with Walnut Mall Limited Partnership for the development of the Walnut Mall, consisting of the Hub Tower, Kaleidoscope, and underground Parking Garage; and,

WHEREAS, on December 19, 1994, by Roll Call No. 94-4808, the City Council consented to the dissolution of the Walnut Mall Limited Partnership, and to amendments to the Loan Agreement and Mortgage whereby the Kaleidoscope was assigned to Hubbell Realty Company ("Hubbell"); Hubbell assumed responsibility for repayment of the Loan Agreement with City; the City released the Hub Tower and Parking Garage from the lien of the Mortgage; and the City's Mortgage became a first lien upon the Kaleidoscope; and,

WHEREAS, on August 20, 2001, by Roll Call No. 01-2579, the City Council approved a *Third Amendment to Urban Development Action Grant: City/Developer Loan Agreement* and a *Second Amendment to Open-ended Second Mortgage and Security Agreement* with Hubbell to provide for the amortization of the balloon payment then due in September, 2007, over an additional ten years; and,

WHEREAS, Hubbell has requested that the installments on the loan be deferred for a period of four years to allow such funds to be used by Hubbell to finance the substantial tenant improvements required to convert the first floor space from office to retail use; and,

WHEREAS, the City Manager has negotiated an *Amended and Restated Urban Development Action Grant: City/Developer Loan Agreement* which defers the installments on the loan for a period of 4 years and restates the provisions of the agreement that are of continuing applicability; and a *Third Amendment to Open-End Second Mortgage and Security Agreement* which amends the outstanding mortgage to reflect the amendments to the repayment schedule, which documents are on file and available for public inspection in the office of the City Clerk; NOW THEREFORE,

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

( continued )

Date March 14, 2011

1. The *Amended and Restated Urban Development Action Grant: City/Developer Loan Agreement and Third Amendment to Open-End Second Mortgage and Security Agreement* between the City and Hubbell Realty Company as described above are hereby approved.
2. The Mayor is hereby authorized and directed to sign the *Amended and Restated Urban Development Action Grant: City/Developer Loan Agreement and Third Amendment to Open-End Second Mortgage and Security Agreement* on behalf of the City of Des Moines, and the City Clerk is hereby authorized and directed to attest to the Mayor's signature on such documents.
3. The City Clerk is further directed to record the *Third Amendment to Open-End Second Mortgage* in the office of the Polk County Recorder.

( Council Communication No. 11- 144 )

MOVED by Hensley to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			
MOTION CARRIED			APPROVED	

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.

T. M. Franklin Mayor

Diane Rauh City Clerk