



**Roll Call Number**

12-1572

**Agenda Item Number**

33 ✓

**Date** October 8, 2012

**RESOLUTION APPROVING TERMS OF AGREEMENT FOR DISSOLUTION OF UDAG  
LOAN AGREEMENT AND RELEASE OF MORTGAGE – KALEIDOSCOPE AT THE HUB,  
555 AND 699 WALNUT STREET**

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 the Loan Agreement and a Second Amendment to the Mortgage to provide for the amortization of the balloon payment over an additional ten years and on March 14, 2011, by Roll Call No. 11-0437, the City Council approved an Amended Loan Agreement and a Third Amendment to the Mortgage to defer installments on the loan for a period of four years to allow such funds to be used by Hubbell to finance the substantial tenant improvements; and

WHEREAS, Hubbell and Employer’s Mutual Casualty Company (“EMC”) have entered into a Real Estate Purchase and Sale Agreement for EMC’s purchase of the Kaleidoscope which purchase is conditioned, in part, upon dissolution of the Loan Agreement and release of the Mortgage by the City; and

WHEREAS, a Terms of Agreement between the City and Hubbell has been prepared and is on file in the Office of the City Clerk, which provides that the City dissolve the Loan Agreement and release the Mortgage subject to payment to the City of a portion of the cash sales price received from EMC; and

WHEREAS, EMC has submitted a letter setting forth its plans to maintain, improve and operate the Kaleidoscope; and

WHEREAS, sale of the Kaleidoscope by Hubbell to EMC and repayment to the City of a portion of the outstanding balance of the Loan Agreement is in the best interests of the City.

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the Terms of Agreement for dissolution of the Loan Agreement and release of the Mortgage in connection with sale of the Kaleidoscope from Hubbell to EMC, which Terms of Agreement is on file in the Office of the City Clerk, is hereby approved and the Mayor is authorized and directed to execute said Terms of Agreement.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized and directed and the City Clerk is directed to attest as appropriate a document for dissolution of the Loan Agreement, a release of the Mortgage and all such other related documents in such form approved by the Legal Department and such documents shall be delivered to Hubbell in accordance with and subject to the conditions set forth in the Terms of Agreement.

BE IT FURTHER RESOLVED that the letter from EMC setting forth its plans to maintain, improve and operate the Kaleidoscope is hereby received and filed.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

(Council Communication No. 12-539 )

Lawrence R. McDowell
Deputy City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, and TOTAL (7).

MOTION CARRIED APPROVED
T.M. Franklin Council 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.

Diane Rauh City Clerk