

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	September 12, 2011
	<b>Agenda Item No.</b>	<b>28</b>
	<b>Roll Call No.</b>	[ _____ ]
	<b>Communication No.</b>	<b><u>11-597</u></b>
	<b>Submitted by:</b>	<b>Terrance N. Vorbrich, Acting Economic Development Administrator</b>

**AGENDA HEADING:**

Resolution approving 2nd revised preliminary terms of an Urban Renewal Development Agreement with N.D. 22 Fleming, L.L.C., Jake Christensen, Co-Manager, 321 East Walnut Street Suite 2, Des Moines, Iowa 50309, for the historic adaptive reuse of the Fleming Building.

**SYNOPSIS:**

On July 11, 2011, by Roll Call 11-1207, City Council approved a revised preliminary terms of agreement with N.D. 22 Fleming, L.L.C. for the historic adaptive reuse of the Fleming Building. The \$19 million project proposes conversion of the 100-year old office building at 604 Walnut Street into 96 market rate apartment units. These revised preliminary terms were presented as an alternative to a financial assistance package originally approved by Roll Call 10-923 on June 14, 2010.

The Office of Economic Development now proposes a modification in the total amount of financial assistance requested, based on updated project costs that present additional need. As the developer continued to refine project costs and projections after the revised preliminary terms were approved July 11, 2011, the developer determined that they cannot be successful with the proposed level of tax increment financing (TIF) assistance in years 11-15. The developer is proposing to revise the amount of assistance in years 11-15 of the project, requesting five annual payments of \$235,000. This is an increase from the original proposal of \$75,000 in each of the five years. The need is based on increased asbestos abatement and lead removal costs totaling \$1.2 million. The increased assistance will be generated by the project, and supported by a minimum assessment agreement in years 11-15 of \$8 million.

If Council adopts a 10-year, 100% tax abatement schedule for downtown housing, that the Fleming Building project would be eligible under, then the proposed grant installments in years 6-10 following completion of the project would be dropped from the financial assistance package. The developer agrees that the residential portion of the project will be taxed as commercial, and if the State of Iowa Legislature amends the property tax code resulting in a decrease in taxes paid, such reduction will be reflected as a reduction in the proposed TIF-funded installment of the economic development grant(s).

**FISCAL IMPACT:**

Amount: \$1,391,000 (Estimated net present value of three Economic Development Grants)

Funding Source: Five grant installments of \$160,000 per year funded from 2011-2012 Recommended Operating Budget, Economic Development Enterprise Fund, SP743, CMO0980717, page 87, to be paid in years 1-5 following completion of the project.

Five grant installments equal to the new tax increment revenues paid on the residential component of the project in years 6-10, following completion of the project, estimated at around \$170,000 per installment; and five grant installments of \$235,000 per year to be paid in years 11-15, following completion of the project. Grant installments in years 6 through 15 to be funded by project generated tax increment from the Metro Center Urban Renewal Area tax increment financing, FY2011-2012 Recommended Operating Budget, SP370, FIN909105, page 120.

### **ADDITIONAL INFORMATION:**

The Fleming Building was designed by architect Daniel Burnham, who also designed the Flatiron Building in Manhattan's Madison Square and Union Station in Washington, D.C. The building's peak value in 1995, when it was assessed was \$2.5 million. Its 2010 value is \$345,000. The project will provide new life and valuation to the substantially vacant 92,000 square foot building through the planned reuse, including \$1.6 million in new windows and a complete replacement of an antiquated and inefficient cooling system. It will produce additional market rate housing, add population to the downtown area and contribute to continued revitalization efforts in the City of Des Moines.

The project was originally proposed for approval of preliminary terms of agreement in June 2010, and it was approved by Council at that time to proceed with final negotiations, anticipating a 2010 construction initiation. Due to unforeseen market forces, the developer was unable to obtain a commitment for bridge financing for the historic tax credits, and was unable to initiate work in 2010, as planned. When bridge financing was committed in early 2011, negotiations with the Office of Economic Development began again, with three significant new elements in place:

- The original financial assistance package proposed the use of TIF from the greater Metro Center Urban Renewal area. In January 2011, the City learned of a potential reduction in commercial taxable valuation that may significantly reduce available tax increment for use on projects in the Metro Center Urban Renewal Area. It was necessary to renegotiate the proposed assistance package based on other sources, including tax increment generated solely by the project.
- The 10-year, 100% residential tax abatement schedule, originally approved by City Council to spur reinvestment in vacant office and warehouse space and add new residents to downtown Des Moines, expired in December 2010. Since the N.D. 22 Fleming, L.L.C. project had not initiated construction in 2010 as planned, there was no eligibility for the 10-year, 100% schedule, though it was already figured into the project proforma. The project would, however, be eligible for the 5-year, 100% residential tax abatement schedule that is in place.
- The cost of the project has increased from \$14.7 million to \$19.7 million, which reflects higher than anticipated hard construction costs, including several hundred thousand dollars in asbestos abatement.

The Office of Economic Development continued negotiations with N.D. 22 Fleming, L.L.C. to form an assistance package based on project generated tax increment and other funding sources, and also to determine if tax increment generated by the project could function to replace the second 5-years of the 10-year, 100% residential tax abatement schedule.

The proposed assistance now provides an Economic Development Grant, funded by the Economic Development Enterprise account in annual installments of \$160,000, in years 1-5. In years 6-10, an Economic Development Grant, not to exceed the amount of new tax increment revenues on the project,

acts as the second 5-year tax abatement schedule. In years 11-15, an Economic Development Grant of \$235,000 annually will be funded by the new tax increment generated by the project.

If Council adopts a 10-year, 100% tax abatement schedule for downtown housing that the Fleming Building project would be eligible under, then the proposed grant installments in years 6-10, following completion of the project, would be dropped from the financial assistance package. The developer agrees that the residential portion of the project will be taxed as commercial, and if the State of Iowa Legislature amends the property tax code, resulting in a decrease in taxes paid, such reduction will be reflected as a reduction in the proposed TIF-funded installment of the economic development grant(s).

#### **PREVIOUS COUNCIL ACTION(S):**

Date: July 25, 2011

Roll Call Number: 11-1294

Action: Withdrawn

Date: July 11, 2011

Roll Call Number: 11-1207

Action: [Preliminary](#) Terms of Urban Renewal Development Agreement with ND Fleming, LLC for residential redevelopment of Fleming Building, 604 Walnut Street. ([Council Communication No. 11-456](#)) **Moved by Meyer to receive, file and approve preliminary terms of agreement set forth in Council Communication No. 11-456 and to direct the City Manager to proceed with negotiations of formal agreements with ND 22 Fleming, LLC consistent with the terms set forth in Council Communication No. 11-456. Motion Carried 7-0.**

Date: June 14, 2010

Roll Call Number: 10-923

Action: [Preliminary](#) terms of agreement with ND 22 Fleming, LLC for residential redevelopment of Fleming Building at 604 Walnut Street and directing City Manager to proceed with negotiations of formal agreements. ([Council Communication No. 10-327](#)) **Moved by Hensley to receive, file and approve preliminary terms of agreement set forth in the accompanying Council Communication and to direct the City Manager to proceed with negotiations of formal agreements with ND 22 Fleming, LLC consistent with the terms set forth in the accompanying Council Communication. Motion Carried 7-0.**

#### **BOARD/COMMISSION ACTION(S):**

Board: Urban Design Review Board

Date: June 7, 2011

Resolution Number: N/A

Action: The Board recommends approval of the proposed design, with the condition that a third window option that replicates the original windows be presented to the National Park Service. The Board also requests a review of any changes required by the National Park Service to the elevations regarding fresh air intake. Motion by Garner. Seconded by Clark. Motion carried.

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

City Council approval of a final development agreement.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).