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**Date** April 12, 2010.....

**RESOLUTION APPROVING FIRST AMENDMENT TO  
URBAN RENEWAL DEVELOPMENT AGREEMENT WITH  
LIBERTY BUILDING DEVELOPMENT GROUP, L.L.C.**

WHEREAS, by Roll Call No. 05-814 of April 6, 2005, the City Council approved an Urban Renewal Development Agreement between the City and Liberty Building Development Group, L.L.C. f/k/a K.C. Holdings VI, L.L.C. (“Liberty”) and Equitable, L.P. (“Equitable”) for the rehabilitation and renovation of the Liberty Building and the Equitable Building and the construction of a new parking garage in downtown Des Moines; and

WHEREAS, Liberty has completed development of the parking garage and certain commercial and residential improvements within the Liberty Building and Equitable has failed to comply with the terms of the Development Agreement for the rehabilitation and renovation of the Equitable Building; and

WHEREAS, by Roll Call No. 09-2322 of December 21, 2009, the City Council approved the preliminary terms of agreement with Liberty for the additional rehabilitation and renovation of five floors of the Liberty Building for a 95-room hotel; and

WHEREAS, a First Amendment to the Development Agreement between the City and Liberty has been prepared to remove the requirements for renovation and development of the Equitable Building by Equitable, to reflect the status of the development of the Liberty Building and the parking garage, to set out the hotel rehabilitation and renovation improvements to be made to the Liberty Building and to include provisions for an additional economic development grant to Liberty; and

WHEREAS, the First Amendment to the Development Agreement provides that the City shall advance to Liberty a TIF-funded additional economic development grant in the amount of \$2,400,000 payable in ten equal annual installments which grant is in addition to the reduced economic development grant to Liberty of \$3,676,305 that was included in the terms of the original Development Agreement; and

WHEREAS, the City desires additional hotel rooms within the downtown to attract downtown visitors and to support businesses and cultural and recreational improvements in the downtown; and

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WHEREAS, the development of the Liberty Building, including the proposed hotel improvements, and the development of the parking garage further the objectives of the Metro Center Urban Renewal Plan to preserve and create an environment which will protect the health, safety and general welfare of City residents and maintain taxable values within the Metro Center Urban Renewal Project Area, to encourage development of affordable 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 provide a variety of locations to serve the different housing markets within the Metro Center Urban Renewal Project Area, to encourage intensive and coordinated mixed-use development of commercial, residential and parking facilities, including hotel improvements, that will support businesses and help assure the most efficient and effective use of public and private investments, to provide for the orderly expansion of downtown Des Moines as a retail, financial and business center of the metropolitan area, to support the maintenance and rehabilitation of sound existing structures and the preservation of properties of architectural and historic merit, and to encourage the coordinated development of parcels and structures to achieve efficient building design and the provision of adequate parking; and

WHEREAS, the continuation of the reduced economic development grant and the provision of the additional economic development grant for the development of the Liberty Building, including the hotel improvements, and the parking garage shall be provided by the City pursuant to the Urban Renewal Law and Chapter 15A of the Code of Iowa and the obligation of Liberty under the amended Agreement to rehabilitate, renovate and construct improvements, including the hotel improvements, will generate the following public gains and benefits: (i) it will initiate the renovation and rehabilitation of blighted buildings in accordance with the Metro Center Urban Renewal Plan; (ii) it will 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; (iii) it will provide attractive hotel development to serve employees, visitors and tourists; (iv) it will encourage further private investment and will attract and retain residents and businesses in the Metro Center Urban Renewal Project Area to reverse the pattern of disinvestment and declining resident population; and, (v) it will further the City's efforts to create and retain job opportunities within the Metro Center Urban Renewal Project Area which might otherwise be lost; and

WHEREAS, the development of the Liberty Building, including the hotel improvements, and parking garage are speculative ventures and the public gains and benefits from the rehabilitation, renovation, construction and resulting housing, hotel and parking redevelopment opportunities would not occur without the economic incentives provided in the amended Development Agreement and the public gains and benefits are warranted in comparison to the amount of the economic incentives; and

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WHEREAS, City believes that the development of the Liberty Building, including the hotel improvements, and the parking garage pursuant to the amended Development Agreement, and the fulfillment generally of the amended Development Agreement, are in the vital and best interests of the 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 Metro Center Urban Renewal Project has been undertaken, and warrant the provision of the economic development assistance set forth in the amended Development Agreement; and

WHEREAS, the Urban Design Review Board at its meeting of February 2, 2010 recommended approval of the additional economic development assistance for the development of the hotel improvements to the Liberty Building and recommended approval of the preliminary design for the hotel improvements to the Liberty Building.

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

1. The First Amendment to the Urban Renewal Development Agreement between the City and Liberty Building Development Group, L.L.C. which provides for the continued rehabilitation and renovation of the Liberty Building with hotel improvements and provides that the City continue payments to Liberty of the TIF-funded reduced economic development grant in the amount of \$3,676,305 and provides that the City pay to Liberty a TIF-funded additional economic development grant in the amount of \$2,400,000 for the completion of the hotel renovation improvements, is hereby approved.
2. The Mayor is hereby authorized and directed to sign the First Amendment to the Urban Renewal Development Agreement on behalf of the City of Des Moines and the City Clerk is authorized and directed to attest to the Mayor's signature.
3. Upon receipt of the executed Revised Declaration of Covenants substantially in the form of the Exhibit "B-3" to the First Amendment Urban Renewal Development Agreement and approval of same by the Legal Department, the City Clerk is directed to certify City approval and acceptance of the Declaration.

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4. The Mayor is hereby authorized and directed to sign the Amended Minimum Assessment Agreement substantially in the form of Exhibit "C-4" to the First Amendment to the Urban Renewal Development Agreement upon approval of same by the Legal Department and the City Clerk is authorized and directed to attest to the Mayor's signature and to affix the seal of the City.

5. Upon satisfaction of the conditions for advancement of the continued payments of the reduced economic development grant and upon satisfaction of the conditions for advancement of the additional economic development grant pursuant to Article 7 of the First Amendment to Urban Renewal Development Agreement and confirmation of the same by the City Manager and Legal Department, the Finance Department is hereby authorized and directed to advance the installment proceeds of such grants to Liberty in accordance with the terms of the First Amendment to the Urban Renewal Development Agreement.

6. The City Manager or his designees are hereby authorized and directed to administer the First Amendment to the Urban Renewal Development Agreement on behalf of the City, including the filing of the Revised Declaration of Covenants and the Amended Minimum Assessment Agreement and to monitor compliance by Liberty with the terms and conditions of the First Amendment of the Urban Renewal Development Agreement and the City Manager is directed to forward to the City Council all matters and documents that require City Council review and approval in accordance with the First Amendment to the Urban Renewal Development Agreement.

7. It is hereby determined that Liberty has satisfactorily completed the following improvements: (i) the portion of the Liberty Building Commercial Component consisting of commercial office and retail use renovation on Floors 1, 2, 3 and 12; (ii) the Liberty Building residential condominium units on Floors 9, 10 and 11; and (iii) the parking garage, and the City Manager is hereby authorized and directed to issue Certificates of Completion for such improvements with the effective date of December 31, 2006, all in such form approved by the Legal Department.

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8. The City Manager and the Legal Department are hereby authorized and directed to take any necessary actions to memorialize the removal of Equitable, L.P. as a party to the original Urban Renewal Development Agreement.

APPROVED AS TO FORM:

Moved by \_\_\_\_\_ to adopt.

  
 \_\_\_\_\_  
 Lawrence R. McDowell  
 Deputy City Attorney

(Council Communication No. 10-174 )

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
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