

 <p style="text-align: center;"><b>Council</b> <b>Communication</b> Office of the City Manager</p>	<b>Date:</b> September 24, 2012
	<b>Agenda Item No.</b> 23 <b>Roll Call No.</b> <u>12-1503</u> <b>Communication No.</b> <u>12-510</u> <b>Submitted by:</b> Matthew Anderson, Assistant City Manager

**AGENDA HEADING:**

Resolution to approve agreement with Waterfront Lodging, Inc. for the undergrounding of overhead electric lines on Market Street between 2nd Avenue and Water Street.

**SYNOPSIS:**

On September 10, 2012, by Roll Call No. 12-1419, City Council moved to receive and file a communication from the City Manager for the undergrounding of the overhead electric lines in Market Street between 2nd Avenue and Water Street, and authorize the City Manager to negotiate final terms with Waterfront Lodging, Inc. for consideration by the City Council.

Final terms of agreement have been negotiated, which will provide for Waterfront Lodging, Inc. to have the overhead electric lines relocated underground in accordance with design and construction plans prepared by Mid American Energy. The City will contract with Mid American Energy for the necessary relocation work to be performed and request that the work be undertaken as a beautification effort. The City, as the contracting entity, will reduce the overall development cost to Waterfront Lodging, Inc. as it will provide the ability to forego a 21% tax normally assigned to private entities by Mid American Energy. Waterfront Lodging will provide the City with a check for 100% of the amount to conduct the required work, prior to work being initiated. Absent the tax, the amount for the work is \$81,922.53.

The City’s request that the Market Street overhead electric service be undergrounded presents an unforeseen development cost to Waterfront Lodging, Inc. To assist with that unforeseen cost, the City has proposed construction period tax abatement not to exceed \$52,000, for the value added to the Waterfront Lodging project in 2012. This amount reflects costs for undergrounding the overhead electric service that are above and beyond what Waterfront Lodging, Inc. would normally incur to move the services as overhead. City staff will present City Council with an amendment to the Metro Center Urban Renewal Plan to facilitate the use of the construction period tax abatement on the Waterfront Lodging site.

**FISCAL IMPACT:**

Amount: Not to exceed \$52,000.

Funding Source: One year exemption from taxes on the taxable value added to the block bounded by 2<sup>nd</sup> Avenue and Vine Street, Market and Water Street.

**ADDITIONAL INFORMATION:**

City staff has met with Mid American Energy and representatives of Brown-Camp and Tone Lofts regarding the design prepared by Mid American Energy for the undergrounding of the overhead electric service. The representatives from Brown-Camp and Tone Lofts requested that a planned transformer pad be relocated to the west to provide less of a visual obstruction to the residents. This alternative has been reviewed by Mid American Energy and is currently being reviewed by Waterfront Lodging, Inc.

As the underground electric solution has been reviewed for Market Street, it has also been reviewed for Vine Street. The goal is to provide for consistency in the treatment of the electric services that are adjacent to existing residential properties. City staff is working with Waterfront Lodging, Inc. and Mid American Energy to review design plans for undergrounding of the Vine Street electric services. No tax abatement assistance is proposed for the cost of this work, but staff has recommended that the City be the contracting entity with Mid American Energy for this work also to reduce the cost from the tax normally applied by Mid American Energy.

**PREVIOUS COUNCIL ACTION(S):**

Date: September 10, 2012

Roll Call Number: [12-1419](#)

Action: [Regarding](#) a proposed agreement with Waterfront Lodging, Inc. for the undergrounding of the overhead electric lines in Market Street between 2<sup>nd</sup> Avenue and Water Street. ([Council Communication No. 12-497](#)). Moved by Hensley to receive and file, and to authorize the City Manager to negotiate a final agreement for City financial assistance based on the preliminary terms of agreement as outlined in Council Communication No. 12-497. Motion Carried 7-0.

Date: August 27, 2012

Roll Call Number: [12-1383](#)

Action: [Approval](#) of revised final development plan for Waterfront Lodging, Inc., project at 2<sup>nd</sup> Avenue and Water Street. ([Council Communication No. 12-468](#)). Moved by Hensley to adopt; refer to the City Manager to work with the Developer and MidAmerican Energy on options for possibly burying the power lines in the area. Motion Carried 7-0.

Date: February 6, 2012

Roll Call Number: [12-0149](#)

Action: [Approving](#) Final Development Plan for Waterfront Lodging, Inc. project at 2<sup>nd</sup> Avenue and Water Street. ([Council Communication No. 12-044](#)). Moved by Hensley to adopt; subject to the Final Development Plan being amended to identify the second hotel to be a Marriott, Hilton or InterContinental brand hotel. Motion Carried 6-1. Nays: Meyer.

Date: January 27, 2012

Roll Call Number: [12-0145](#)

Action: [Consideration](#) of Final Development Plan submitted by Waterfront Lodging, Inc. for two new hotels and a parking garage in the 100 block of Water Street (Roll Call contains alternative motions). Moved by Hensley to refer the Final Development Plan to the City Manager for further investigation and report on the use of architectural thin brick and its durability and appropriate application; and to authorize City Attorney to negotiate language satisfactory in form and content to him regarding reconveyance or a reversionary interest regarding the real estate which is subject to this development by February 6, 2012. Authorize Mayor to sign all necessary documents once approved to as form by City Attorney. Motion Carried 6-1. Nays: Meyer.

Date: January 23, 2012

Roll Call Number: [12-0114](#) thru [12-0121](#)

Action: Items regarding Waterfront Lodging Inc. development of the block bounded by Vine, SW Water Street, Market and SW 2<sup>nd</sup> Street:

- (A) [Recommendation](#) from Plan and Zoning Commission. Moved by Hensley to receive and file and refer to the Engineering Department, Real Estate Division. Motion Carried 6-1. Nays: Meyer.
- (B) [Hearing](#) on vacation and conveyance of a small segment of remaining public alley right-of-way. Moved by Hensley to adopt, subject to approval of the Final development Plan by the City Council. Motion Carried 6-1. Nays: Meyer.
  - (1) [First](#) consideration of vacation ordinance. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Nays: Meyer.
  - (2) [Final](#) consideration of vacation ordinance, (waiver requested by the applicant), requires 6 votes. Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#15,076](#). Motion Carried 6-1. Nays: Meyer.
- (C) [Hearing](#) on vacation and conveyance of segments of SW Water Street and Market Street right-of-way, in exchange for comparable parcels along Vine Street and SW 2<sup>nd</sup> Street. Moved by Hensley to adopt, subject to approval of the Final Development Play by the City Council. Motion Carried 6-1. Nays: Meyer.
  - (1) [First](#) consideration of vacation ordinance. Moved by Hensley that this ordinance be considered and given first vote for passage. Motion Carried 6-1. Nays: Meyer.
  - (2) [Final](#) consideration of vacation ordinance, (waiver requested by the applicant), requires 6 votes. Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#15,077](#). Motion Carried 6-1. Nays: Meyer.

- (D) [Approving](#) final terms of a Development Agreement with Waterfront Lodging, Inc. and Conceptual Development Plan for two new hotels and a parking garage in the 100 Block of Water Street. ([Council Communication No. 12-038](#)). Moved by Hensley to adopt. Motion Carried 6-1. Nays: Meyer.

Date: November 7, 2011

Roll Call Number: [11-1920](#)

Action: [Preliminary](#) Terms of Agreement with Waterfront Lodging, Inc. for construction of a 129 room hotel, a 245 space parking structure and a 120 room hotel, all to be located in the 100 block of 2<sup>nd</sup> and Water Streets. ([Council Communication No. 11-696](#)). Moved by Hensley to receive, file and approve the preliminary terms of agreement as set forth in Council Communication No. 11-696, and to direct the City Manager to proceed with negotiation of formal agreements with Waterfront Lodging, Inc., consistent with the terms set forth in Council Communication No. 11-696. Motion Carried 6-1. Nays: Meyer.

Date: November 7, 2011

Roll Call Number: [11-1921](#)

Action: [Setting](#) date of hearing on vacation and conveyance of a small segment of remaining public alley right-of-way located in the block bound by Vine, Water, Market and Southwest 2<sup>nd</sup> Streets to Waterfront Lodging, Inc., (11-21-11). Moved by Hensley to adopt. Motion Carried 6-1. Nays: Meyer.

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

Board: Urban Design Review Board

Date: August 21, 2012

Resolution Number: N/A

Action: Recommended approval of the revised Conceptual Development Plan with recommendations to screen the parking garage on the west side with preference for also screening the south side, reduce the number of exterior materials, removing either the ledge stone or the cast stone and replacing with full dimension brick already proposed, and have garbage enclosure constructed of brick similar to that of the Hampton Inn, with screening doors to be constructed of a solid, opaque material such as metal.

Board: Urban Design Review Board

Date: August 7, 2012

Resolution Number: N/A

Action: Preliminary design, no formal action. Board members stated that the revised plan was going in the right direction. The redesign efforts are on a good path and the revisions give a better understanding of the proportions. Board members requested demonstration of the context to adjacent buildings right next to the project on all sides be provided at the next meeting, cut sheets of all light

fixtures that are not city standard, detailed planting plan, examples of any hardscape material enhancements being used, detail of the cement board system, typical details of the wall sections.

Board: Urban Design Review Board

Date: January 25, 2012

Resolution Number: N/A

Action: A motion by Mormann to approve the project design provided that thin brick shall be replaced by full dimension brick on the two hotels but not on the parking garage. Seconded by Rypma. An amendment to the motion requested by Hearn to require full brick on only the first floor lower level. Amendment rejected by Mormann. A second amendment to the motion requested by Hearn to require traditional dimension brick on street view side of the facades of the two hotels (Vine, Water and Market Streets) with the interior courtyard to be thin brick. Amendment accepted by Mormann. Motion carried 5-3.

Board: Urban Design Review Board

Date: January 17, 2012

Resolution Number: N/A

Action: A motion by Garner to approve the level of financial assistance with the criteria that UDRB have a more thorough review of the design of the parking structure and the materials in the entire development if that allows the development team to proceed with financing. Seconded by Hearn. Amended by Wattier to approve the conceptual exterior design of the two hotels, not the garage building, and to bring the garage and the materials of all buildings back to the board. Subject to HOA review. Motion carried 5-1.

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:**

Consideration of an amendment to the Metro Center Urban Renewal Plan to facilitate the use of the construction period tax abatement on the Waterfront Lodging site.

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