

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	November 19, 2012
	Agenda Item No.	13
	Roll Call No.	<u>12-1759</u>
	Communication No.	<u>12-581</u>
	Submitted by:	Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Approving the Settlement Agreements and Releases relating to the Lease Agreement and 28E Agreement for the real property located at 401 5th Avenue originally entered into in 1995. The lease is no longer in effect, but there were remaining outstanding financial obligations between the parties which this settlement addresses.

SYNOPSIS:

Approving the Settlement Agreements and Releases relating to the Lease Agreement and 28E Agreement for the real property located at 401 5th Avenue originally entered into in 1995. The lease is no longer in effect, but there were remaining outstanding financial obligations between the parties which this settlement addresses.

FISCAL IMPACT:

Amount: \$49,920 (Revenue)

Funding Source: Operating Budget: T&T – Parking Administration, EN051, ENG100701, Parking Operations Fund.

ADDITIONAL INFORMATION:

On July 10, 1995, by Roll Call No. 95-2665, the City Council approved a Lease Agreement (“Lease”) between the City and William C. Knapp, Trustee of the William C. Knapp Revocable Trust for the public plaza located at 401 5th Avenue, in the vicinity of 5th Avenue and Locust Street, which Lease was assigned by William C. Knapp to Shaner Hotel Group pursuant to City consent in Roll Call No. 96-1850, and was further assigned to Shaner Hotel Group Properties Two, L.P. (“Shaner Hotel Group”), and extended until July 31, 2010 pursuant to Council approval by Roll Call No. 05-3006 on December 19, 2005.

Additionally, on July 10, 1995, by Roll Call No. 95-2663, the City Council approved a 28E Agreement (“28E Agreement”) between the City and the Des Moines Independent Community School District (“School District”) relating to use of the leased property by the Downtown School, which 28E Agreement was extended until July 31, 2010 pursuant to Council approval by Roll Call No. 05-3006 on December 19, 2005.

Pursuant to the Lease and 28E Agreement, the School District was required to pay to the City the amount of real property taxes owed for the leased property, which payment was in turn to be made by

the City to Shaner Hotel Group, and the School District was further required to pay to the City a portion of the City's usual charge for parking spaces in the City parking ramp at 4th Street and Grand Avenue which were used by Shaner Hotel Group as partial consideration for the Lease.

Shaner Hotel Group has executed a Settlement Agreement and Release by and between the City, Shaner Hotel Group, and the School District, whereby Shaner Hotel Group releases claims against the School District and City in exchange for payment of the lump sum amount of \$36,121.50 for real estate taxes from July 2005 through March 2008, which payment is to be made by the School District to the City, and in turn by the City to Shaner Hotel Group.

The School District approved the above-referenced Settlement Agreement at its Board meeting on November 13, 2012, and at the November 27, 2012 Board meeting will be considering for approval a separate Settlement Agreement and Release by and between the City and the School District, whereby the City releases claims against the School District in exchange for payment of the lump sum amount of \$49,920.00 for payment of the parking space revenue from July 2005 through March 2008. Approval of the Settlement and Release Agreements is in the best interest of the City.

PREVIOUS COUNCIL ACTION(S):

Date: July 10, 1995

Roll Call Number: 95-2665

Action: Approving Lease Agreement between the City of Des Moines and William C. Knapp, Trustee of the William C. Knapp Revocable Trust for the public plaza located at 401 5th Avenue.

Date: July 10, 1995

Roll Call Number: 95-2663

Action: Approving Intergovernmental 28E Agreement between the City of Des Moines and Des Moines Independent Community School District – Public Plaza Project.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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