

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 14, 2014
	Agenda Item No. 22 Roll Call No. <u>14-1045</u> Communication No. <u>14-343</u> Submitted by: Jeb E. Brewer, P.E., City Engineer

AGENDA HEADING:

Acceptance of corrected quit claim deed from Union Pacific Railroad and approval of environmental covenant between the City of Des Moines and the Iowa Department of Natural Resources on City-owned property formerly owned by Union Pacific Railroad (UPRR) on the south side of Gray’s Lake.

SYNOPSIS:

Recommend acceptance of corrected quit claim deed from Union Pacific Railroad and Council approval of environmental covenant between the City of Des Moines and the Iowa Department of Natural Resources (IDNR) on City-owned property formerly owned by UPRR on the south side of Gray’s Lake. The early acquisition of this property was completed for the future Southwest Connector Corridor and a portion of the property is subject to this environmental covenant as part of the IDNR’s land recycling program (LRP). In accordance with the terms of the purchase agreement, the property was enrolled under the LRP and all environmental work was completed by UPRR. As part of the environmental assessment work, soil and/or groundwater contamination was identified on a portion of the property and the IDNR has approved the use of the environmental covenant as a method for managing the risk of future exposure to contamination. The City’s Legal and Engineering Departments have negotiated the terms of the environmental covenant with the IDNR and said covenant must now be approved by the City Council before final approval by the IDNR. The terms of the environmental covenant also required changes to the original deed from UPRR conveying the property to the City, so a Corrected Quit Claim Deed must also be approved by the City Council.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

On March 28, 2005, by Roll Call No. 05-687, City Council approved the early acquisition of the property from the UPRR for the future Southwest Connector Project. On December 18, 2006, by Roll Call No. 06-2448, City Council approved amendment to real estate documents to address certain environmental issues with the property to be acquired. Access was granted to the UPRR pursuant to the amended agreement to purchase real estate and a license to enter for environmental work. The UPRR enrolled in the IDNR’s LRP and soil and/or groundwater contamination has been identified. Iowa Code Section 455H-206 and IDNR rules in chapter 567 (1.A.C.) 137 authorizes the use of an environmental covenant as an institutional control to manage the risk of future exposure to existing contamination by limiting specified land use activities at this property. The City’s Legal and Engineering Departments have negotiated the terms of the environmental covenant with the IDNR in order to protect the City’s interest in the acquired property and in the construction of the future Southwest Connector Corridor.

In accordance with the environmental covenant, the restricted portion of the property is limited to the following activities and uses:

Plantings of trees, shrubs and flowers, public or private streets or highways, paved walkways or vehicle paths, hard surface parking, hard surface recreational trail purposes, the use of the existing maintenance buildings for continued maintenance use. The City may also use the restricted portion of the property for any other park purpose, but only if prior to such development and/or use, the Grantor conducts sufficient and adequate sampling and analysis that demonstrates that environmental media (soil, groundwater, and/or surface water) which such other park use would expose to the public do not exceed the applicable statewide standards established by the Iowa Department of Natural Resources, Land Recycling Program (including the use of risk-based corrective action levels established by the Department Underground Storage Tank Program for certain hydrocarbon constituents).

In order to comply with the above restrictions, the City will need to pave any walkways, trails or parking areas within the restricted area.

Map of Restricted Area (shown in red)



PREVIOUS COUNCIL ACTION(S):

Date: December 18, 2006

Roll Call Number: [06-2448](#)

Action: [Amended](#) real estate documents for abandoned railroad corridor property from the south side of Gray's Lake and extending westerly to Southwest 30th Street for the Southwest Connector Project. Moved by Vlassis to adopt. Motion Carried 6-0.

Date: October 23, 2006

Roll Call Number: [06-2079](#)

Action: Approving real estate transactions and accepting real estate documents from Union Pacific Railroad Company for various City projects for the following:

- (B) [Southwest](#) Connector. ([Council Communication No. 06-674](#)) Moved by Hensley adopt. Motion Carried 6-0.

Date: August 22, 2005

Roll Call Number: 05-2044

Action: Establishing Fair Market Value and authorizing acquisition of abandoned railroad corridor extending westerly to SW 30th Street for Southwest Connector Project, \$1,026,000. Moved Carried 7-0.

Date: March 28, 2005

Roll Call Number: 05-687

Action: Authorization to proceed with early acquisition of property from vacated SW 12th Street, west to SW 30th Street for the future Southwest Connector Project. Moved by Hensley to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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