

Date July 14, 2014

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 COMPANY ON THE SOUTH SIDE OF GRAY'S LAKE

WHEREAS, on March 28, 2005, by Roll Call No. 05-687, City Council approved early acquisition of property located on the south side of Gray's Lake from Union Pacific Railroad Company for the future Southwest Connector Project; and

WHEREAS, on October 23, 2006, by Roll Call No. 06-2079, the City Council approved the Agreement to Purchase Real Estate for the above referenced property; and

WHEREAS, on December 18, 2006, by Roll Call No. 06-2448, City Council approved an amendment to real estate documents to address certain environmental issues with the property to be acquired; and

WHEREAS, the amended agreement to purchase real estate granted Union Pacific Railroad Company a license to enter the property for environmental work; and

WHEREAS, the amended agreement contained a covenant on a portion of the property entitled "Restricted Portion"; and

WHEREAS, Union Pacific Railroad Company enrolled the property in the Iowa Department of Natural Resources' Land Recycling Program (LRP). Under the LRP, Union Pacific Railroad Company performed environmental work which consisted of soil and groundwater investigations and risk assessment, and such investigation and assessment identified soil and/or groundwater contamination; and

WHEREAS, the Iowa Department of Natural Resources has approved the use of the Environmental Covenant as one method for managing the risk of future exposure to contamination and the restricted use of the property in the Environmental Covenant is duplicative of the one contained in the Corrective Deed from Union Pacific Railroad Company; and

WHEREAS, the City's Legal and Engineering Departments have negotiated the terms of the Environmental Covenant, on file with the City Clerk as Exhibit "1" and by this reference made a part hereof, with the Iowa Department of Natural Resources and said Covenant must now be approved by City Council; and

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WHEREAS, a Corrected Quit Claim Deed has been obtained from Union Pacific Railroad Company to modify the covenant on the restricted portion of the property obtained from Union Pacific Railroad Company.

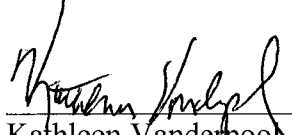
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the Corrected Quit Claim Deed from Union Pacific Railroad Company is hereby accepted and approved; and
2. That the above-referenced Environmental Covenant between the City of Des Moines and the Iowa Department of Natural Resources is hereby approved.
3. That the Mayor is authorized and directed to sign the Corrected Quit Claim Deed and the Environmental Covenant and the City Clerk is authorized and directed to attest the Mayor's signature.
4. That the City Clerk is directed to return the Corrected Quit Claim Deed to the Real Estate Division for recording and the executed Covenant to the Legal Department to be forwarded to the Iowa Department of Natural Resources for execution and recording.

(Council Communication No. 14- 343)

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Kathleen Vanderpool
 Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
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