

Date August 28, 2017

RESOLUTION APPROVING ISSUANCE OF CERTIFICATE OF COMPLETION TO 220 SE 6TH STREET PROPERTIES, LLC, FOR THE NEW OFFICE BUILDING AND PARKING STRUCTURE AT 220 SE 6TH STREET

WHEREAS, on August 22, 2016, by Roll Call No. 16-1411, the City Council approved an *Urban Renewal Development Agreement* and a *Parking License Agreement* with 220 SE 6th Street Properties, LLC (the "Developer"), represented by Adam Petersen, President of PDM Precast, Inc., and by Jim Kottmeyer, Partner of GPS Impact, for City assistance for the redevelopment of vacant parcel at 220 SE 6th Street (the "Property") with a 47,000 square foot office building and a three-level parking structure with approximately 175 parking spaces, and for the City's use of 60 of those parking spaces for an initial term of 25 years with two optional 10-year extensions; and,

WHEREAS, it was subsequently discovered that BNSF Railway Company claims the right to restore rail service within the East Elm Street right-of-way adjoining the Property, and that it owns the railroad ties, spikes and tie plats that are buried within that right-of-way, which has required substantial changes to the design and layout of the parking structure and the timing of the improvements to the adjoining portion of East Elm Street; and,

WHEREAS, on June 26, 2017, by Roll Call No. 17-1061, the City Council approved a *First Amendment to Urban Renewal Development Agreement and Parking License Agreement* (the "First Amendment") with the Developer to reflect changes to the design and layout of the parking structure and the timing of the improvements to E. Elm Street as a result of the railroad issues, to increase the number of parking spaces to be licensed for use by the City to 76, and to amend the final incentives to be provided by the City, all as more specifically described in Council Communication No. 17-519; and,

WHEREAS, the office building and parking structure have now been completed in substantial conformance with the approved Conceptual Development Plan and the Developer has requested issuance of a Certificate of Completion to memorialize its satisfactory completion of all the required Improvements in conformance with the First Amendment; and,

WHEREAS, as anticipated by the First Amendment, the planned right-of-way improvements to E. Elm Street adjoining the Property have not been completed and cannot be completed until the rail line within that right-of-way has been formally abandoned with the approval of the federal Surface Transportation Board.

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

1. The City Council hereby finds and acknowledges that 220 SE 6th Street Properties, LLC, has satisfied its obligation to complete the Improvements to 220 SE 6th Street, more specifically

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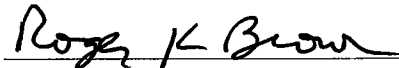
described below, in substantial compliance with the *Urban Renewal Development Agreement* as amended by the First Amendment, and with the approved Conceptual Development Plan. This resolution shall serve as the Certificate of Completion to be issued by the City pursuant to Section 2.2A of the First Amendment. As provided by the First Amendment, the scope of this Certificate of Completion excludes the required Right-of-way Improvements.

South 1/4 of Market Square in the Town of De Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, more particularly described as follows: All that part of "Market Square" in said Town of De Moines, lying between the North line of East Elm Street and a line projected through "Market Square" which is equal distance from the North line of East Elm Street and the South line of Market Street, and extending from the East line of Southeast Fifth Street to the West line of Southeast Sixth Street.

- The City Clerk is hereby directed to cause a certified copy of this resolution and roll call to be recorded in the office of the Recorder of Polk County, Iowa.

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

  
 Roger K. Brown  
 Assistant City Attorney  
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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

**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.

MOTION CARRIED APPROVED

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk