

★ Roll Call Number

Agenda Item Number

13-1786

15

Date November 18, 2013

ACCEPTANCE OF TEMPORARY EASEMENT FROM EIGHT WAYS, LLC FOR THE BEAVER AVENUE STREETScape PROJECT

WHEREAS, on August 26, 2013, by Roll Call No. 13-1314, the City Council authorized acquisition of the necessary right-of-way and easements for the Beaver Avenue Streetscape Project by gift, negotiation or condemnation; and

WHEREAS, Eight Ways, LLC is the owner of property locally known as 2801 Beaver Avenue, and the City requires a temporary easement for construction and construction-related activities upon such property for construction of a portion of the Beaver Avenue Streetscape Project; and

WHEREAS, City staff and Eight Ways, LLC have negotiated the terms of a temporary easement for construction and construction-related activities that includes provisions by which the City agrees to indemnify and hold harmless Eight Ways, LLC from claims directly related to the City's acts or omissions pursuant to the Easement, except for those arising out of negligence, recklessness or intentional acts of the owner or unrelated third parties, and by which the City agrees to pay for landscaping and irrigation system costs; and

WHEREAS, said easement is now being presented to the City Council for acceptance due to the aforementioned easement terms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that following document as on file with the City Real Estate Division Manager, recommended for approval and acceptance by the Real Estate Division of the Engineering Department, be and is hereby approved and accepted as follows:

Property Owner: Eight Ways, LLC
Property Location: 2801 Beaver Avenue, Des Moines, IA 50310
Document Type: Temporary Easement for Construction and Construction-Related Activities

BE IT FURTHER RESOLVED, that the City Real Estate Division Manager is directed to retain the document in City files or proceed to record the document with the Polk County Recorder's Office, as applicable.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

Moved by \_\_\_\_\_ to adopt.

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, 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