

★ **Roll Call Number**
16-0263

Agenda Item Number
14

Date February 22, 2016

RESOLUTION AUTHORIZING AND APPROVING PARTIAL RELEASE OF PERMANENT NO-BUILD EASEMENT RESERVATION FOR A PORTION OF VACATED SOUTHWEST 1ST STREET BETWEEN JACKSON AVENUE AND GRANGER AVENUE FOR \$825

WHEREAS, on February 24, 2014, by Roll Call No. 14-0280 the City Council received a recommendation from the City Plan and Zoning Commission that a segment of Southwest 1st Street right-of-way from Jackson Avenue to Indianola Avenue (“City Right-of-Way”), be vacated as requested by Neighborhood Development Corporation for redevelopment; and

WHEREAS, on September 14, 2015, by Roll Call No. 15-1510, it was duly resolved by the City Council that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on September 28, 2015, at 5:00 p.m., in the Council Chamber; and

WHEREAS, on September 28, 2015, by Roll Call No. 15-1637, the City Council of the City of Des Moines, Iowa, approved the vacation and conveyance of such City Right-of-Way to Neighborhood Development Corporation for \$83,260.00; and

WHEREAS, on September 28, 2015, the City of Des Moines, Iowa, executed a Quit Claim Deed conveying the City Right-of-Way to Indy East, LLC, successor in interest to Neighborhood Development Corporation, said Quit Claim Deed being subsequently recorded in the office of the Recorder of Polk County, Iowa on November 5, 2015 in Book 15798, Pages 633-643 and containing the reservation by City of a permanent no-build easement prohibiting the construction of any structure, building or other improvement over or within a specific portion of the City Right-of-Way depicted in Exhibit 1 of the Affidavit filed of record in the office of the Recorder of Polk County, Iowa, in Book 15873 Page 652, on January 20, 2016, until such time as Buyer pays to the City of Des Moines, Iowa, the difference between the full Fair Market Value of the City Right-of-Way (\$3.10 per square foot) and the restricted Fair Market Value paid by Buyer (\$1.55 per square foot); and

WHEREAS, Indy East, LLC has agreed to pay City Eight Hundred Twenty-five dollars (\$825.00) for the partial release of the permanent no-build easement from a portion of said City Right-of-Way, more particularly described below; said amount being the difference between the full Fair Market Value of the City Right-of-Way and the restricted Fair Market Value; and

WHEREAS, The City has no need for that portion of the permanent no-build easement in said City Right-of-Way as described below.

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

1. There is no public need for the property interest described below and the public would not be inconvenienced by reason of the partial release of the City’s permanent no-build easement reservation specifically described as follows:



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That part of Vacated SW 1st Street lying East of and adjoining Lots 7 and 8 in Block 6 of South Fort Des Moines, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Northeast corner of said Lot 8 in Block 6 of South Fort Des Moines; thence South 19°(degrees) 11'(minutes) 34"(seconds) West, 21.11 feet along the East line of said Lot 8 to the **Point of Beginning**; thence South 70°48'26" East, 8.00 feet; thence South 19°11'34" West, 66.56 feet; thence North 70°48'26" West, 8.00 feet to the East line of said Lot 7 in Block 6 of South Fort Des Moines; thence North 19°11'34" East, 66.56 feet along the East line of said Lots 7 and 8 in Block 6 of South Fort Des Moines to the point of beginning; containing 533 square feet.

(VACATED BY ORDINANCE NO. 15,406, PASSED September 28, 2015.)

2. The partial release of such City permanent no-build easement reservation be and is hereby approved.
3. The Mayor is authorized and directed to sign the Partial Release of Permanent No-Build Easement, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Partial Release of Permanent No-Build Easement, together with a certified copy of this resolution, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Partial Release of Permanent No-Build Easement, together with a certified copy of this resolution, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
6. Upon receipt of the recorded document back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Partial Release of Permanent No-Build Easement to the grantee.



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(Council Communication No. 16- 083)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

RTW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED T. M. Franklin Council 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.

Diane Rauh City Clerk