



Roll Call Number

16-1511

Agenda Item Number

34

Date September 12, 2016

**SET HEARING FOR CONVEYANCE OF A PERMANENT EASEMENT FOR
SANITARY SEWER RIGHT OF WAY ON CITY-OWNED PROPERTY LOCATED
AT 7401 SW 9TH STREET TO FDM DEVELOPMENT PARTNERSHIP LLLP, IN
CONSIDERATION OF FDM DEVELOPMENT PARTNERSHIP LLLP'S
DEVELOPMENT OF THE ADJOINING PROPERTY**

WHEREAS, the City of Des Moines, Iowa (“City”), is the owner of the real property located at 7401 SW 9th Street, in Des Moines, Iowa, a portion of which is currently being leased to the Blank Park Zoo Foundation, Inc.; and

WHEREAS, Fort Des Moines Restoration, LLC, an Iowa limited liability company, entered in to an Urban Renewal Development Agreement with the City filed for record on March 12, 2015, at Book 15496, Page 980 in the office of the Polk County Recorder and any amendments thereto (“Development Agreement”), and

WHEREAS, on August 22, 2016, by Roll Call No. 16-1412, the City Council of the City of Des Moines, Iowa, approved an amended and restated version of said Development Agreement, which approves and allows the transfer of the land, and the assignment of said Development Agreement, to FDM Development Partnership, LLLP, an Iowa limited liability limited partnership; and

WHEREAS, FDM Development Partnership, LLLP has requested a Sanitary Sewer Right of Way under, over, through, and across a portion of said City-owned property located at 7401 SW 9th Street, as legally described below (“Easement Area”), in order to construct and maintain a private sanitary sewer as part of a development project on the adjoining property; and

WHEREAS, the City’s Real Estate Division has negotiated a Permanent Easement for Sanitary Sewer Right of Way to FDM Development Partnership, LLLP in consideration of FDM Development Partnership, LLLP’s undertakings pursuant to said Development Agreement as assignee of Fort Des Moines Restoration, LLC; and

WHEREAS, the conveyance of said Permanent Easement for Sanitary Sewer Right of Way to FDM Development Partnership, LLLP is contingent upon FDM Development Partnership, LLLP first obtaining title to the land adjoining the Easement Area; and

WHEREAS, the Blank Park Zoo Foundation, Inc. has provided its consent to the Permanent Easement for Sanitary Sewer Right of Way, and the City will not be inconvenienced by the conveyance of the proposed Permanent Easement for Sanitary Sewer Easement to FDM Development Partnership LLLP.

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



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1. The City Council of the City of Des Moines, Iowa, proposes to approve and grant a Sanitary Sewer Easement under, over, through, and across a portion of City-owned property located at 7401 SW 9th Street, legally described as follows, to FDM Development Partnership LLLP in consideration of FDM Development Partnership's undertakings as assignee of Fort Des Moines Restoration, pursuant the Amended and Restated Development Agreement approved by the City Council of the City of Des Moines, Iowa, by Roll Call No. 16-1412 and any amendments thereto:

A PART OF THE NORTHEAST QUARTER (1/4) OF SECTION 33, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

THE NORTHERLY TWENTY-ONE FEET (21') OF THE WESTERLY NINETY FEET (90') OF PARCEL 'B' AND THE NORTHERLY TWENTY-ONE FEET (21') OF THE EASTERLY FOUR HUNDRED ONE FEET (401') OF PARCEL 'A', BOTH AS DESCRIBED ON THE PLAT OF SURVEY FILED ON OCTOBER 23, 1998 AS INSTRUMENT NO. 036385 IN BOOK 8041, PAGE 37 IN THE RECORDS OF THE POLK COUNTY RECORDER, CONTAINING 10,405.36 SQUARE FEET.

2. A public hearing will be held on September 26, 2016, at 5:00 p.m. in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa. At that time, the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of the proposal and hearing in the form hereto attached, all in accordance with Iowa Code Section 362.3.
4. There are no proceeds associated with this transaction.

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

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

T. M. Franklin 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