



Roll Call Number

19-1965

Agenda Item Number

4

Date December 9, 2019

SET PUBLIC HEARING FOR APPROVING DEVELOPMENT AGREEMENT WITH DES MOINES AREA METROPOLITAN PLANNING ORGANIZATION FOR THE DES MOINES TRANSLOADING FACILITY AND AUTHORIZING CONTINGENT ASSIGNMENT AND ASSUMPTION OF IDOT RAILROAD REVOLVING LOAN AND GRANT PROGRAM LOAN OBLIGATIONS

WHEREAS, by separate roll call of this date, the City Council set hearing to consider approval of an Urban Renewal Agreement for the Sale of Land for Redevelopment with Des Moines Transload Services, LLC ("Operator") for the construction and operation of a railroad transloading facility in the vicinity of 200 Southeast 15th Street; and

WHEREAS, the Des Moines Area Metropolitan Planning Organization ("MPO") has entered into an Iowa Department of Transportation ("IDOT") Railroad Revolving Loan and Grant Program ("RRLGP") Loan Agreement in the amount of \$1,700,000 with the Loan proceeds to be used for the development of a rail connection and transload facility by the Operator including the acquisition of rail, ties, track-related materials and other personal property to be constructed or installed as part of the transload facility and those Loan proceeds will be passed through by the MPO to the Operator pursuant to the terms of a Transload Development and Operation Agreement ("Sub-Loan"); and

WHEREAS, the railroad transloading facility development furthers the SE AgriBusiness Urban Renewal Plan objectives to: create and preserve an environment to protect the health, safety, general welfare and quality of life of City residents as well as maintain and increase taxable values and good quality employment in the Urban Renewal Area; to provide for the orderly expansion of appropriate and diverse service, manufacturing and industrial uses in the City; to encourage and support development which enhances and makes the best possible use of public facilities resources and investments; to ensure that the Urban Renewal Area is adequately served with public utilities and services to support contemporary development requirements; to encourage intensive, coordinated development of public improvements and of commercial and industrial agribusiness and related facilities to ensure efficient and effective use of available land and investments; and to improve truck and rail traffic and circulation within the Urban Renewal Area; and

WHEREAS, IDOT is requiring additional sources for repayment of the RRLGP Loan in the event the Operator defaults on the Sub-Loan; and

WHEREAS, to satisfy the IDOT RRLGP Loan requirements, the City and MPO intend to enter into a Des Moines Transloading Facility Development Agreement which provides that, in the event of an Operator default, the City will take an assignment and assume the rights and obligations of the MPO under the RRLGP Loan and the Sub-Loan, the City will make all payments due under the RRLGP Loan, the City will pursue all rights and remedies against the Operator and the City will be reimbursed by the MPO for any loss or loan payments from Recaptured STBG Funds; and

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WHEREAS, in the event of Operator default and assignment of the RRLGP Loan Agreement to the City, any loan payments made by the City under the Loan Agreement will be payable from the general fund and such payments will not cause the total of scheduled annual payments of principal or interest or both principal and interest due from the general fund in any single future fiscal year with respect to all loan agreements currently in force to exceed ten percent of the last certified general fund budget amount; and

WHEREAS, proposed authorization and approval by the City Council of the contingent assignment to and assumption by the City of the RRLGP Loan Agreement obligation requires that a public hearing be held in accordance with Iowa Code Sections 384.24A and 384.25.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that a public hearing of the City Council is hereby set for 5:00 p.m. on December 16, 2019 in the Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, for the purpose of approving the Des Moines Transloading Facility Development Agreement between the City and MPO, on file in the Office of the City Clerk, including the authorization and approval of the contingent assignment to and assumption by the City of the obligations under the RRLGP Loan Agreement.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to publish notice of said public hearing in the attached form, in the Des Moines Register, a newspaper of general circulation in the City of Des Moines, said publication to be not less than four and no more than twenty days before the date of public hearing in accordance with Iowa Code Sections 362.3, 384.24A and 384.25.

APPROVED AS TO FORM:

Lawrence R. McDowell  
Deputy City Attorney

Moved by Gatto to adopt.

\*Mayor Cownie abstains from voting based on an appearance of a conflict of interest.

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
*COWNIE				
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	6			

CERTIFICATE

I, P. Kay Cmelik, 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

City Clerk