



Roll Call Number

22-1559

Agenda Item Number

54

Date October 3, 2022

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A PERMANENT EASEMENT FOR SANITARY SEWER FACILITIES AND A TEMPORARY EASEMENT FOR CONSTRUCTION AND CONSTRUCTION-RELATED ACTIVITIES IN CITY PROPERTY LOCATED NORTH OF AND ADJOINING 1 LINE DRIVE TO DES MOINES METROPOLITAN WASTEWATER RECLAMATION AUTHORITY

WHEREAS, City of Des Moines (City), and DBH Iowa, LLC, successor in interest to Endeavor Group Holdings Inc., which was successor in interest to Greater Des Moines Baseball Co., (“Lessee”), are parties to a lease agreement dated August 26, 1991, as amended, for the use of Sec Taylor Stadium, now known as Principal Park, all ancillary buildings and surrounding parking lots and grounds (Leased Premises) for playing professional baseball games and conducting promotions; and

WHEREAS, Des Moines Metropolitan Wastewater Reclamation Authority (“WRA”) has requested a Permanent Easement for Sanitary Sewer Facilities and a Temporary Easement for Construction and Construction-Related Activities (hereinafter “Easements”), as legally described below, in a portion of the Leased Premises at the north end of the parking area located north of and adjoining 1 Line Drive, Des Moines, Iowa (hereinafter “Property”); and

WHEREAS, DBH Iowa, LLC has provided their written consent to the Easements; and

WHEREAS, there is no known current or future public need for the Property proposed to be sold, and the City will not be inconvenienced by the sale and conveyance of said Property; and

WHEREAS, on September 12, 2022 by Roll Call No. 22-1412, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on October 3, 2022, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to convey the Property interests was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of a Permanent Easement for Sanitary Sewer Facilities and a Temporary Easement for Construction and Construction-Related Activities in a portion of the City property located at the north end of the parking area located between Southwest 2nd Street, West Martin Luther

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King Jr. Parkway and Southwest Water Street and north of and adjoining 1 Line Drive, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

- There is no public need or benefit for the property interests proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of a Permanent Easement for Sanitary Sewer Facilities and a Temporary Easement for Construction and Construction-Related Activities in a portion of the City property located at the north end of the parking area located between Southwest 2nd Street, West Martin Luther King Jr. Parkway and Southwest Water Street and north of and adjoining 1 Line Drive, legally described as follows, to Des Moines Metropolitan Wastewater Reclamation Authority for \$1.00 and other good and valuable consideration and the mutual promises and covenants contained in the Amended and Restated Agreement for the Des Moines Metropolitan Wastewater Reclamation Authority (WRA Agreement):

Permanent easement:

A PERPETUAL SANITARY SEWER EASEMENT LOCATED IN LOT 1 OF FACTORY ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF DES MOINES, POLK COUNTY, IOWA AND IN ACCRETION LAND LYING SOUTHEAST OF AND ADJOINING SAID LOT 1, INCLUDING FROM SW WATER STREET, EAST TO THE RIVER, MORE PARTICULARLY DESCRIBED AS A STRIP 30.00 FEET IN WIDTH LYING 15.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHWEST CORNER OF TRACT NO. 1 IN THE PLAT OF SURVEY FOR RIGHT-OF-WAY DEDICATION RECORDED IN BOOK 14139 ON PAGE 432 IN THE POLK COUNTY RECORDER'S OFFICE; THENCE NORTH 72°01'37" EAST ALONG THE SOUTH LINE OF SAID TRACT NO. 1, 66.13 FEET TO THE INTERSECTION OF SAID SOUTH LINE AND THE EAST RIGHT-OF-WAY LINE OF SW 2nd STREET; THENCE SOUTH 15°21'50" EAST ALONG SAID EAST RIGHT-OF-WAY LINE 15.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 73°55'48" EAST, 46.37 FEET; THENCE SOUTH 81°36'14" EAST, 108.00 FEET; THENCE NORTH 65°47'35" EAST, 190.26 FEET; THENCE SOUTH 89°06'14" EAST, 45.40 FEET TO THE TERMINUS.

CONTAINING 11,701 SQUARE FEET OR 0.27 ACRES, MORE OR LESS, SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

Temporary easement:

A TEMPORARY CONSTRUCTION EASEMENT LOCATED IN TRACT NO. 1 OF THE PLAT OF SURVEY FOR RIGHT-OF-WAY DEDICATION AS RECORDED IN BOOK 14139 ON PAGE 432 IN THE POLK COUNTY, RECORDER'S OFFICE AND IN LOT 1 OF FACTORY ADDITION, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING PART OF DES MOINES, POLK COUNTY, IOWA AND IN ACCRETION LAND LYING SOUTHEAST OF AND ADJOINING SAID LOT 1,



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INCLUDING FROM SW WATER STREET, EAST TO THE RIVER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT NO. 1; THENCE NORTH 72°01'37" EAST ALONG THE SOUTH LINE OF SAID TRACT NO. 1, 66.13 FEET TO THE INTERSECTION OF SAID SOUTH LINE AND THE EAST RIGHT-OF-WAY LINE OF SW 2nd STREET, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 72°01'37" EAST ALONG SAID SOUTH LINE OF TRACT NO. 1, 38.28 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE CONTINUING NORTH 72°01'37" EAST , 6.98 FEET; THENCE NORTH 18°34'17" WEST, 50.60 FEET; THENCE NORTH 72°04'31" EAST, 81.40 FEET; THENCE NORTH 89°30'43" EAST, 96.63 FEET; THENCE SOUTH 21°07'00" EAST, 68.77 FEET; THENCE NORTH 66°59'58" EAST, 99.33 FEET; THENCE NORTH 28°12'23" WEST, 23.78 FEET TO THE SOUTH LINE OF SAID TRACT NO. 1; THENCE NORTH 89°03'50" EAST ALONG SAID SOUTH LINE, 66.74 FEET; THENCE SOUTH 00°42'06" WEST, 89.14 FEET; THENCE NORTH 90°00'00" WEST, 17.38 FEET; THENCE NORTH 28°53'24" WEST, 50.06 FEET; THENCE SOUTH 65°47'35" WEST, 98.24 FEET; THENCE SOUTH 24°12'25" EAST, 10.00 FEET; THENCE SOUTH 65°47'35" WEST, 77.04 FEET; THENCE NORTH 81°39'28" WEST, 39.77 FEET; THENCE SOUTH 66°57'41" WEST, 121.66 FEET TO SAID EAST RIGHT-OF-WAY LINE OF SW 2nd STREET; THENCE NORTH 15°21'50" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, 86.73 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM A PERPETUAL SANITARY SEWER EASEMENT AS SHOWN ON EXHIBIT PE-5401.

CONTAINING 21,997 SQUARE FEET OR 0.51 ACRES, MORE OR LESS, SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

FOR THE PURPOSE OF THIS DESCRIPTION, ALL BEARING AND DISTANCES ARE REFERENCED TO NAD83(2011) IA SPCS SOUTH ZONE, US SURVEY FOOT.

3. The Mayor is authorized and directed to sign the Permanent Easement for Sanitary Sewer Facilities and Temporary Easement for Construction and Construction-Related Activities for the conveyance as identified above, 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 Permanent Easement for Sanitary Sewer Facilities and Temporary Easement for Construction and Construction-Related Activities, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing the Permanent Easement for Sanitary Sewer Facilities to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Sanitary Sewer Facilities, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.



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- 6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Sanitary Sewer Facilities and copies of the other documents to the grantee.
- 7. There are no proceeds associated with this transaction.

Moved by Mandelbaum to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED
J. M. Franklin Cownie Mayor

CERTIFICATE

I, Laura Baumgartner, 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.

Laura Baumgartner
Laura Baumgartner, City Clerk