

Date December 5, 2016

**RESOLUTION APPROVING RIGHT-OF-ENTRY AGREEMENT WITH  
MARKET DISTRICT ONE, LLC TO DEVELOP CITY-OWNED PROPERTY AT  
401 SE 6TH STREET AND 400 SE 7TH STREET**

**WHEREAS**, on October 10, 2016, by Roll Call No. 16-1721, the City Council authorized the City Manager to negotiate an urban renewal development agreement based on preliminary terms of agreement with Market One, LLC n/k/a Market District One, LLC, represented by Frank Levy, Partner (“Developer”), for sale of City-owned property located at the intersections of SE 6<sup>th</sup> Street and East Martin Luther King Jr. Parkway, locally known as 401 SE 6<sup>th</sup> Street and 400 SE 7<sup>th</sup> Street (collectively “Property”) and located in the Market District, for development of a 4-story, estimated 58-unit multi-family residential building and parking lot for residents; and

**WHEREAS**, on November 21, 2016, by Roll Call No. 16-2001, the City Council accepted the revised development proposal from Market District One, LLC to develop the Property and set a date of public hearing on said proposal and Development Agreement associated therewith; and

**WHEREAS**, due to construction timelines associated with Workforce Housing Tax Credits awarded by the Iowa Economic Development Authority, the Developer has requested a temporary Right-of-Entry to access and immediately commence grading and fill work on the Property, legally described as follows, in accordance with a City-approved grading plan:

PARCEL 2016-55

LOTS 1, 9, AND 10, A PORTION OF LOT 2, THE VACATED NORTH - SOUTH ALLEY WEST OF AND ADJACENT TO SAID LOTS 9 AND 10, ALL IN BLOCK 42, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA; VACATED EAST ML KING JR PARKWAY SOUTH OF AND ADJOINING SAID LOTS 2 AND 9 AND THE INTERVENING ALLEY; VACATED RACCOON STREET NORTH OF AND ADJOINING SAID LOTS 1 AND 10 AND INTERVENING ALLEY; VACATED SE 7TH STREET BETWEEN RACCOON STREET AND EAST MARTIN LUTHER KING JR PARKWAY, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1 IN BLOCK 42 OF SAID TOWN OF DE MOINE; THENCE N30°00'30"E, A DISTANCE OF 8.51 FEET; THENCE N74°57'52"E, A DISTANCE OF 321.96 FEET; THENCE S14°53'27"E, A DISTANCE OF 139.84 FEET; THENCE S74°57'52"W, A DISTANCE OF 277.81 FEET; THENCE NORTHWESTERLY ALONG A 77.50 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A DISTANCE OF 56.76 FEET, SAID CURVE HAVING A CHORD BEARING OF N79°48'35"W AND A CHORD DISTANCE OF 55.50 FEET TO THE WEST LINE OF LOT 2 IN BLOCK 42 OF SAID TOWN OF DE MOINE; THENCE N14°49'54"W ALONG THE WEST LINE OF LOTS 2 AND 1 IN BLOCK 42 OF SAID TOWN OF DE MOINE, A DISTANCE OF 110.18 FEET TO THE POINT OF BEGINNING. SAID TRACT OF LAND CONTAINS 1.035 ACRES (45,067 SQUARE FEET). SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD; and

**WHEREAS**, City staff and the Developer are negotiating a right-of-entry agreement, substantially in the form on file in the office of the City Clerk, which would allow the Developer to commence said work on the Property and would require the Developer to indemnify and insure the City for said work and to return

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the Property to its original condition, at the Developer's sole cost, in the event that the Development Agreement and/or closing on the Property are not approved or completed.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, that the City Manager and/or Real Estate Division Director are hereby authorized and directed to execute a temporary Right-of-Entry from the City to the Developer to immediately access the above-described real property, subject to the requirement that the Developer return the property to its original condition in the event that the Development Agreement and property sale are not approved by City Council.

(Council Comm. No. 16-674)

MOVED BY \_\_\_\_\_ to adopt.

FORM APPROVED:

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

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