

Date September 13, 2021

APPROVING AND ACCEPTING STORMWATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT WITH DES MOINES INDUSTRIAL LAND, LLC AND DES MOINES INDUSTRIAL, LLC (PAUL COWNIE) FOR STORMWATER DETENTION BASIN LOCATED IN THE VICINITY OF 200 SE 15TH STREET FOR DEVELOPMENT OF A MULTI-MODAL TRANSLOADING FACILITY

WHEREAS, on January 26, 1998, by Roll Call No. 98-275, the City Council of the City of Des Moines approved the SE AgriBusiness Urban Renewal Plan, and such Plan has been amended 12 times (the urban renewal plan so amended is herein referred to as the “Plan”), covering real property located between SE 14th Street and SE 43rd Street and extending north from the Des Moines River to Dean Avenue; and

WHEREAS, on December 16, 2019, by Roll Call No. 19-2067, following public hearing, the City Council approved an Urban Renewal Development Agreement (“Development Agreement”) by and between the City of Des Moines and Des Moines Industrial, LLC, developer/operator, represented by Paul Cownie, Officer, and involving Des Moines Industrial Land, LLC, property owner, represented by Paul Cownie, Officer (collectively “Developer”), relating to the sale and development of City-owned property located in the vicinity of 200 SE 15th Street (“Property”) and located in the SE AgriBusiness Urban Renewal Area, for the purchase price of \$1,434,000.00, for construction and operation of a multi-modal transloading facility, including a minimum 115,200 square foot warehouse building, a minimum 37,500 square foot bulk mineral storage building, and related parking and access drives, rail trackage, signage, signals, safety measures, and site improvements (collectively “Improvements” or “Project”), and approved the Site Layout Plan submitted therewith; and

WHEREAS, on July 13, 2020, by Roll Call No. 20-1121, the City Council approved the Conceptual Development Plan for the Improvements as provided by the Developer and recommended for approval by the Urban Design Review Board; and

WHEREAS, on December 7, 2020, by Roll Call No. 20-1997, the City Council approved a Private Construction Contract between Ryan Companies US, Inc. and Des Moines Industrial, LLC, for storm sewer improvements in 200 E. 15th Street related to the transload facility project including the basin and similar improvements described below; and

WHEREAS, as part of the review and approval of the site plan for the Improvements under Des Moines Municipal Code Chapter 135, the Developer requested and identified a need for reconfiguration of the proposed stormwater detention basins on the Property to allow Developer to maximize the future development potential of the Property, which reconfiguration would further meet landscaping requirements and allow the City to use a stormwater detention basin (Basin 3) located on the Property as part of the City’s Regional Detention Area at East Martin Luther King, Jr. Parkway and Southeast 15th Street in addition to Developer’s use of said basin; and

WHEREAS, the Developer and City have negotiated a Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement (“Agreement”), in form on file in the office of the City Clerk, which Agreement provides that Developer, and its successors in interest and assigns, will control and address stormwater runoff for the Property and provide the City with access to and use of the stormwater detention basin, will maintain, inspect, and abate any nuisances within the basin and the flared end section (FES) discharge points and stormwater junction box from City-owned storm sewers and City right-of-way within and into the basin in accordance with the approved Stormwater Management Plan, and will reimburse the City for all costs associated with City repair and maintenance of the improvements in the event that Developer fails to complete said work; and

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WHEREAS, the City’s Development Services, Engineering, and Public Works Departments intend for the Agreement to fulfill Developer’s obligation under the Planning and Design Ordinance, Chapter 135 of the Des Moines Municipal Code, to provide stormwater management and landscaping for the Property; and

WHEREAS, the Agreement is being presented to City Council for approval due to its use for site plan approval rather than subdivision purposes, and due to the extent of duties and obligations placed on the Developer in the Agreement, and further due to the nature of the City’s interest in use of the stormwater detention basin as part of the City’s regional stormwater management system.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, that the Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement, in form on file in the office of the City Clerk, is hereby approved; the Mayor is hereby directed to sign and accept the Agreement on behalf of the City and the City Clerk is directed to attest to his signature; the City’s Real Estate Division is directed to record the Agreement; and the City’s Public Works Department and Engineering Department are directed to administer and monitor compliance with the Agreement.

(Council Communication No. 21-381)

MOVED BY _____ to adopt.

FORM APPROVED:

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

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				

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

Mayor

City Clerk