

★ Roll Call Number

13-1158

Agenda Item Number

63

Date July 15, 2013

**RESOLUTION APPROVING REAL PROPERTY EXCHANGE AND GRANT AGREEMENT WITH
CLEAR CHANNEL OUTDOOR, INC. AND AUTHORIZING ACQUISITION OF PROPERTY
LOCATED AT 849 ARMY POST ROAD**

WHEREAS, Clear Channel Outdoor, Inc. (“CCO”) has been leasing excess City-owned property at 227 63rd Street since 1995 and another parcel located on the west side of I-235, north of Hull Avenue, since 1981, and both leases have expired; and

WHEREAS, CCO has proposed to convey real property owned by CCO and locally known as 849 Army Post Road (“Property”) to the City by Special Warranty Deed, as consideration and in exchange for lease extensions for the existing billboards at the above-stated lease locations; and

WHEREAS, the City wishes to acquire the Property for commercial redevelopment of the northeast corner of Army Post Road and SW 9th Streets, which corner has been vacant for approximately 10 years; and

WHEREAS, City staff and CCO have negotiated a Real Property Exchange and Grant Agreement and Reservation of Perpetual Easements, as on file in the office of the City Clerk, which provides in part that the proposed acquisition by the City will be subject to reservation by CCO of easements to allow the existing billboard on the Property to remain in place, including a vision clearance easement and access easement to maintain the billboard, which easements are not anticipated to negatively impact future redevelopment of the site; and

WHEREAS, the negotiated Agreement further provides that the City must accept the Property “as-is”, where-is” and “with all faults”, and without warranty as to any environmental or other condition of the Property, and thus the City has contracted to perform a Phase I environmental assessment of the Property prior to closing; and

WHEREAS, the negotiated Agreement further provides that closing on City acquisition of the Property is subject to City Council approval of the CCO lease extensions as described herein above, and subject to performance by CCO upon the Property of hydraulic hoist and tank removal, soil and groundwater testing, closure of monitoring well(s), clearing, grading, and seeding or depositing funds for seeding, all at CCO’s expense and in accordance with Iowa Department of Natural Resources (IDNR) requirements and City Engineer approval and/or SUDAS requirements, as applicable.

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

1. That the Real Property Exchange and Grant Agreement and Reservation of Perpetual Easements for property located at 849 Army Post Road, as on file in the office of the City Clerk, be and is hereby approved.
2. That the voluntary acquisition of the real property locally known as 849 Army Post Road, Des Moines, is hereby authorized and approved pursuant to said Agreement, subject to compliance by Clear Channel Outdoor, Inc. with the closing conditions set forth above and in said Agreement.
3. That the Mayor is authorized and directed to sign said Agreement and, subject to and upon compliance by Clear Channel Outdoor, Inc. with the closing conditions, to sign the Special Warranty Deed on behalf of the City, and to sign all other necessary real estate documents, and the City Clerk is hereby authorized and directed to attest to his

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signature on said documents and to endorse the approval and acceptance of this Council upon all necessary real estate documents associated with this acquisition, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager.

4. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the Real Property Exchange and Grant Agreement and Reservation of Perpetual Easements; to approve and execute documents pertaining to minor or unsubstantial changes to said Agreement, following approval of the City's Legal Department as to form; and, if needed, to proceed with and execute documents pertaining to the termination of the Agreement if Clear Channel Outdoor, Inc. fails to fulfill the contract terms required therein, following approval of the City's Legal Department as to form.

5. That the Real Estate Division Manager is authorized and directed to complete the acquisition pursuant to the Real Property Exchange and Grant Agreement and Reservation of Perpetual Easements, in accordance with the conditions set forth therein, and in accordance with standard real estate practices and state law requirements, and the Finance Director is authorized and directed to issue checks to pay any unforeseen additional closing costs certified by the Legal Department and the Engineering Department.

6. That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department's review and approval of all closing documents prior to closing.

(Council Communication No. 13-376)

Moved by Meyer to adopt.

APPROVED AS TO FORM:

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

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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