



Roll Call Number

22-0866

Agenda Item Number

18

Date June 13, 2022

ACCEPTANCE OF AMENDED REAL ESTATE DOCUMENTS FROM NORFOLK SOUTHERN RAILWAY COMPANY FOR THE DES MOINES RIVER LEVEE ALTERATIONS – PHASE B PROJECT TO CORRECT SCRIVENER’S ERROR IN LEGAL DESCRIPTION

WHEREAS, on November 9, 2020, by Roll Call No. 20-1756, the City Council of the City of Des Moines, Iowa, approved authorizing the City to proceed with the necessary activities and negotiations to acquire by gift, negotiation, or condemnation the necessary property interests for construction of the Des Moines River Levee Alterations – Phases B and C Project; and

WHEREAS, Norfolk Southern Railway Company owns property in the vicinity of 200 SW 16th Street and South of Wabash St., specifically identified as tax parcel nos. 020/00962-005-000 and 020/00962-003-000, adjoining 200 SW 16th St., Des Moines, Iowa 50309 (“Property”) and a fee simple interest is required by the City of Des Moines for the Des Moines River Levee Phase B Project; and

WHEREAS, on May 9, 2022, by Roll Call No. 22-0680, the City Council of the City of Des Moines, Iowa, approved acquisition of the Property from Norfolk Southern Railway Company; and

WHEREAS, a scrivener’s error in the legal description was subsequently discovered, which requires correction as well as the extension the closing date; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the amended documents conveying a fee simple interest in the Property to the City, recommended for approval and acceptance by the Real Estate Division of the Engineering Department and the Legal Department on file in the office of the City Clerk, be and are hereby approved and accepted for said Property, to correct the scrivener’s error in the legal description therein and to correct the date of the closing in light of said delay.

That the Finance Director is authorized and directed to issue checks for the acquisition and to pay any costs certified by the Legal Department and the Engineering Department, and the Real Estate Division Manager is authorized and directed to obtain the checks needed to carry out this transaction and to deliver them to the payee(s).

That the Real Estate Division of the Engineering Department is directed to obtain the Legal Department’s review and approval as to form of all closing documents and related settlement and release prior to closing.

That the City Clerk is hereby authorized and directed to endorse upon the Deed the approval and acceptance of this Council and all necessary real estate documents associated with this acquisition; the Mayor is hereby authorized to execute the necessary real estate documents associated with the acquisition, and any authorization associated with the Mayor’s signature of said real estate documents pursuant to Roll Call No. 22-0680 are hereby ratified, and the City Clerk is further authorized and directed to deliver the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

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Moved by Gatto to adopt. Second by Voss.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER				✓
VOSS	✓			
WESTERGAARD	✓			
TOTAL	6	0	0	1
MOTION CARRIED		APPROVED		
<i>J. M. Franken</i>		Mayor		

I, Laura Baumgartner, Acting 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

City Clerk