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Doc ID: 030285580006 Type: GEN
Kind: SPECIAL WARRANTY DEED
Recorded: 11/18/2015 at 08:32:11 AM
Fee Amt: \$37.00 Page 1 of 6
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2015-00155444

BK 15810 PG 239-244

RETURN TO:

Prepared by/RETURN to: G.K. Frank, Assistant City Attorney, 400 E. Robert D. Ray Dr., Des Moines, Iowa 50309, 515/283-4130
Tax Statement to: Confluence on Third LLC, c/o Roers Investments LLC, 1964 W. Wayzata Blvd., Suite 200, Long Lake, MN 55356

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That CITY OF DES MOINES, a municipal corporation, of the County of Polk and State of Iowa (hereinafter referred to as "Grantor"), in consideration of the sum of Two-Hundred Eighty-Thousand and No/100 U.S. Dollars (\$280,000.00), receipt of which is hereby acknowledged, does hereby **GRANT, SELL AND CONVEY** unto **Confluence on Third LLC**, a Delaware limited liability company (hereinafter referred to as "Grantee"), the following described legally described real property situated in the County of Polk and State of Iowa (hereinafter referred to collectively as "Property"), to-wit:

ALL OF THE NORTH/SOUTH ALLEY RIGHT OF WAY, AND ALL OF THE EAST/WEST ALLEY RIGHT OF WAY, INCLUDING INTERSECTION OF BOTH ALLEYS, IN BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 9041 SQUARE FEET.

Exempt from Declaration of Value and Transfer Tax – Government Grantor – Iowa Code Sections 428A.1, 428A.2(6) (2015)

Subject to, whether or not recorded as of the date of recording this Deed, the **Development Agreement** by and between the Grantee and the Grantor; the **Declaration of Covenants** given by Grantee to Grantor; and further subject to any other restrictions, reservations and easements of record.

The City of Des Moines **HEREBY RESERVES** a permanent easement upon the Property described above for the continued use and maintenance of any utilities now in place, including those for the benefit and use of the City of Des Moines, with the right of entry for servicing same until such time said utilities are abandoned or relocated at Grantee's, or its successors' or assigns', sole expense following written agreement with the City or applicable utility.

Grantor will only warrant and forever defend the right and title to the above-described Property unto Grantee against claims of persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, said City of Des Moines, Iowa, has caused this instrument to be duly executed this 12th day of October, 2015.

CITY OF DES MOINES, IOWA

By: T.M. Franklin Cownie
T.M. Franklin Cownie, Mayor

ATTEST:

Diane Rauh
Diane Rauh, City Clerk

APPROVED AS TO FORM:

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

STATE OF IOWA)
) ss.
COUNTY OF POLK)

On this 12th day of October, 2015, before me, a Notary Public in and for the State of Iowa, appeared T.M. Franklin Cownie and Diane Rauh, to me personally known, and who by me being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation and passed under Roll Call Number 15-1732 of the City Council of the City of Des Moines, Iowa on the 12th day of October, 2015, and that T.M. Franklin Cownie and Diane Rauh acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Laura L. Baumgartner
NOTARY PUBLIC IN AND FOR STATE OF IOWA





Roll Call Number

15-1732

Date October 12, 2015

I, Laura Baumgartner, Chief
Deputy City Clerk of the City of
Des Moines, Iowa, do hereby
certify that this is a true and
correct copy of the original
paper(s) filed in my office. IN
WITNESS WHEREOF, I have
hereunto set my hand and affixed
by official seal on this 12 day of
October 2015
Laura Baumgartner
Chief Deputy City Clerk

Agenda Item Number

52

Page 1

**HOLD HEARING FOR THE PROPOSED CONVEYANCE OF ALLEY RIGHTS-OF-WAY
ADJOINING 103 AND 123 SW 3RD STREET AND 106 AND 112 SW 2ND STREET TO
CONFLUENCE ON THIRD LLC FOR MULTI-FAMILY RESIDENTIAL HOUSING PROJECT**

WHEREAS, on June 15, 1992, by Roll Call No. 92-2205, City Council adopted Ordinance No. 11,835, vacating all of the North/South and East/West alley right-of-ways in Block 29, Fort Des Moines, including those portions adjoining 103 and 123 SW 3rd Street and 106 and 112 SW 2nd Street ("Property"), as legally described below; and

WHEREAS, Confluence on Third LLC, successor to Roers Investments, L.L.C. ("Developer"), has requested to purchase the Property for the purchase price of \$280,000.00 for the purpose of incorporating said alleys into development of a new approximately 211-unit, market-rate, multi-family residential housing project, which purchase price reflects fair market value as established by an independent appraisal dated May 18, 2015; and

WHEREAS, on June 22, 2015, by Roll Call No. 15-1089, the City Council received and filed Council Communication No. 15-325 from the City Manager regarding the purchase and development of the Property, and directed the City Manager to continue to work with the Developer regarding design and financial proposals to facilitate the proposed market-rate multi-family housing project, including terms of development agreement and sale of the Property and Board and Commission review and recommendation processes, and to make a recommendation to Council on the final terms and conditions of the development agreement and sale of the Property; 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 of said property; and

WHEREAS, on September 28, 2015, by Roll Call No. 15-1607, it was duly resolved by the City Council that the proposed conveyance of the Property be set for hearing on October 12, 2015, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey the Property was given 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 all of the North/South and East/West alley right-of-ways in Block 29, Fort Des Moines, including those portions adjoining 103 and 123 SW 3rd Street and 106 and 112 SW 2nd Street, as described herein, are hereby overruled and the hearing is closed.
2. The proposed sale of such vacated right-of-way, as legally described below and to the grantee and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

**Roll Call Number**15-1732**Agenda Item Number**52

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Date October 12, 2015

To: Confluence on Third, L.L.C.

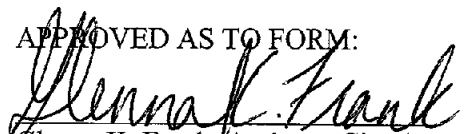
For: \$280,000.00

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY, AND ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY, INCLUDING INTERSECTION OF BOTH ALLEYS, IN BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APROXIMATELY 9041 SQUARE FEET.

3. The Mayor is authorized and directed to sign the Offer to Purchase and Special Warranty Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the Deed, 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 said documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, 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.
6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and a copy of the other documents to the grantee.

(Council Comm. No. 15-534)

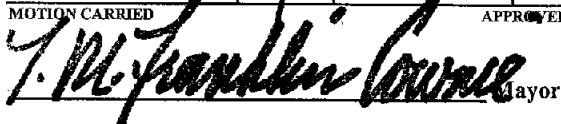
APPROVED AS TO FORM:


 Glenna K. Frank, Assistant City Attorney
Moved by Hensley to adopt.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED

APPROVED


 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 Rau
 City Clerk

15-1732



I, Laura Baumgartner, Chief Deputy City Clerk of the City of Des Moines, Iowa, do hereby certify that this is a true and correct copy of the original paper(s) filed in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal on this 26 day of October, 2015.
Laura Baumgartner
 Chief Deputy City Clerk

AFFIDAVIT OF PUBLICATION

State of Iowa

County of Polk, ss.:

The undersigned, being first duly sworn on oath, states that The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

THE DES MOINES REGISTER

newspaper of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an advertisement, a printed copy of which is attached as Exhibit "A" and made part of this affidavit, was printed and published in The Des Moines Register on the following dates:

Ad No.	Start Date:	Run Dates:	Cost:
0000752293	10/01/15	10/01/15	\$33.26

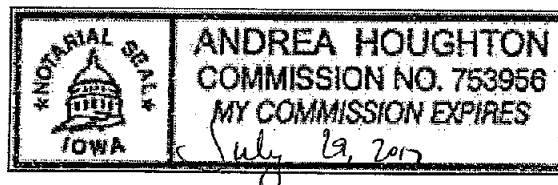
Copy of Advertisement
Exhibit "A"

[Signature]
 VP/Register Weekly Newspapers

Subscribed and sworn to before me by said affiant this

8th day of October, 2015

[Signature]
 Notary Public in and for Polk County, Iowa



PD9358; \$33.26

**NOTICE OF PROPOSAL TO
SELL CITY-OWNED
PROPERTY**

NOTICE IS HEREBY GIVEN that the City Council of the City of Des Moines, Iowa, has adopted a resolution setting a hearing relating to a proposal to sell City-owned vacated North/South and East/West alley right-of-ways in Block 29, Fort Des Moines, including those portions adjoining 103 and 123 SW 3rd Street and 106 and 112 SW 2nd Street, Des Moines, Iowa, and legally described as follows, to Confluence on Third LLC for \$280,000.00:

ALL OF THE VACATED NORTH/SOUTH ALLEY RIGHT OF WAY, AND ALL OF THE VACATED EAST/WEST ALLEY RIGHT OF WAY, INCLUDING INTERSECTION OF BOTH ALLEYS, IN BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING APPROXIMATELY 9041 SQUARE FEET.

NOTICE IS FURTHER GIVEN that the City Council will consider the approval of the proposed sale after a public hearing to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa, on October 12, 2015. Persons interested in the proposal will be given the opportunity to express their views at that hearing.

PUBLISHED IN THE DES MOINES REGISTER ON OCTOBER 1, 2015.