

**March 2, 2015**

**To: Mayor Bemrich and City Council**  
**From: David Fierke, City Manager**  
**Subject: Consent to Enter Upon Property**  
**Corale LLC (Warden building)**



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**ACTION: For vote Monday, March 9, 2015**

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**Brief History**

As part of the Phase I Improvements of the Cross-Town Connector Project, the vaults which lie underneath the streets and sidewalks adjacent to the property located at 908 1<sup>st</sup> Avenue South (former Warden Plaza) will need to be filled in.

**Analysis of Issue**

Filling in the vaults will require the City's contractor to enter the above-referenced building for the purpose of constructing new exterior basement walls.

**Budget Impact**

The only budget impact will be the cost of the actual construction work being completed, which is included in the Phase I Improvements of the Cross-Town Connector Project.

**Strategic Plan Impact**

Policy D.4.2: Advanced planning for all infrastructure facilities shall be supported and routinely updated. Facilities benefited by advanced planning shall include, at minimum, schools, health care, residential areas, roads, water, sewer, storm water management, parks, recreation, and greenways.

Policy C.3.1: Primary entryway corridors into "Downtown Center" shall continue to receive priority for visual enhancements, employing special development standards, public investment, and community involvement to facilitate constructive change.

**Existing Plan Impact**

Approving this "Consent to Enter Upon Property" is consistent with the Envision 2030 Plan.

**Subcommittee or Commission Review / Recommendation**

None

**Staff Conclusions / Recommendations**

Approve the attached "Consent to Enter Upon Property" with the owner of the property at 908 1<sup>st</sup> Avenue South.

**Alternatives**

The only alternative would be to not approve the attached consent.

**Implementation and Accountability**

If this resolution is approved, the document will be executed.

Signed

Approved



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Vickie Reeck,  
Community Development Mgr.

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David R. Fierke  
City Manager

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING A CONSENT TO ENTER UPON PROPERTY  
WITH CORALE LLC**

WHEREAS, as part of Phase I of the Cross-Town Connector Project, the City of Fort Dodge will need to fill in the vaults which lie underneath the streets and sidewalks adjacent to the property located at 908 1<sup>st</sup> Avenue South, owned by Corale LLC; and,

WHEREAS, filling in the vaults will require the City’s contractor to enter the property at 908 1<sup>st</sup> Avenue South for the purpose of constructing new exterior basement walls; and,

WHEREAS, the owner has agreed to give the City and its contractors permission to enter the described building for the above purpose.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Dodge, Iowa, hereby approves the attached “Consent to Enter Upon Property” with Corale LLC in order to complete the vault work.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Other: \_\_\_\_\_

CITY OF FORT DODGE, IOWA

By: \_\_\_\_\_

Matt Bemrich, Mayor

ATTEST:

\_\_\_\_\_  
Jeff Nemmers, City Clerk

Prepared by Mark R. Crimmins, 704 Central Avenue, Fort Dodge, Iowa 50501 (515) 573-2191

**CONSENT TO ENTER UPON PROPERTY**

COMES NOW, Corale LLC, hereinafter referred to as "Grantor" and the City of Fort Dodge, Iowa, hereinafter referred to as "Grantee" and states as follows:

WHEREAS, the Grantee is currently in the process of constructing the Cross-Town Connector Phase I Improvements; and

WHEREAS, the Phase I Improvements mentioned above necessitates replacing First Avenue South between South 9<sup>th</sup> Street and South 10<sup>th</sup> Street in Fort Dodge, Iowa; and

WHEREAS, the replacement mentioned above requires the Grantee to fill in vaults which lie underneath the street and sidewalks along the property owned by the Grantor on First Avenue South; and

WHEREAS, in order the properly fill in the vaults it is necessary to construct a new exterior basement wall on the property currently owned by the Grantor; and

WHEREAS, it is necessary to enter onto and into the building owned by Grantor in order to complete said construction; and

WHEREAS, the Grantor has given Grantee permission to enter the described building and onto the property for the purposes of constructing the new exterior basement wall; and

WHEREAS, the parties desire that the consent and agreement be reduced to writing.

**IT IS THEREFORE AGREED TO AS FOLLOWS:**

1. That the Grantee is hereby authorized to enter onto and into the property owned by the Grantor on First Avenue South, located between South 9<sup>th</sup> Street and South 10<sup>th</sup> Street in Fort Dodge, Iowa.
2. The Grantee is further authorized to take any measures necessary to construct a new exterior basement wall at the North right-of-way line along First Avenue South from the East right-of-way line of South 9<sup>th</sup> Street to the West right-of-way line of South 10<sup>th</sup> Street, and along the East right-of-way line of South 9<sup>th</sup> Street from the North right-of-way line of First Avenue South to a point along said East right-of-way approximately 41 feet North, and along the West right-of-way line of South 10<sup>th</sup> Street from the North right-of-way line of First Avenue South to a point along said West right-of-way line approximately 37 feet North.

3. Said consent to enter into and onto the property shall last until such time as the construction is complete and the wall is secured.
4. That the Grantor shall not charge and the Grantee shall not pay for the right of entrance and construction.
5. That the Grantee shall hold Grantor harmless and shall indemnify the Grantor for any damages, claims, injuries, etc. which shall arise from Grantee's negligence while entered upon the property.
6. That the Grantor shall hold Grantee harmless and shall indemnify the Grantee for any damages, claims, injuries, etc. which shall arise from Grantor's negligence while entered upon the property.
7. This written contract constitutes the entire agreement between the Grantee and Grantor and there is not an agreement to do or not to do any act or deed except as specifically provided for herein.
8. The contract is subject to the approval of the City Council of the City of Fort Dodge, Iowa.

Dated this 20 day of February, 2015.

**GRANTOR:**  
**CORALE LLC**

By Jalendra Bowlsawaka c/o Corale LLC

**GRANTEE:**  
**CITY OF FORT DODGE, IOWA**

By \_\_\_\_\_  
Matt Benrich, Mayor

Approved by the City Council of the City  
of Fort Dodge, Iowa, on the \_\_\_\_ day of  
\_\_\_\_\_, 2015, by Resolution  
No. \_\_\_\_\_.

By \_\_\_\_\_  
Jeff Nemmers, City Clerk