 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: June 25, 2018
	Agenda Item No. 54 Roll Call No. <u>18-1113</u> Communication No. <u>18-337</u> Submitted by: Steven L. Naber, P.E., City Engineer

AGENDA HEADING:

Hold hearing for approval of documents for vacation of portions of 5th Avenue right-of-way and alley right-of-way and conveyance of a Permanent Easement for Subsurface Building Encroachment therein to 5th and Walnut Parking LLC for \$7,590.

SYNOPSIS:

Recommend approval for vacation of portions of 5th Avenue right-of-way and alley right-of-way and conveyance of a Permanent Easement for Subsurface Building Encroachment therein to 5th and Walnut Parking LLC, Justin Mandelbaum, Manager, 4500 Westown Parkway, Suite 115, West Des Moines, Iowa, 50266 for \$7,590, subject to reservation of any necessary easements for all existing utilities in place; and further subject to the requirements of the Offer to Purchase and the City Plan and Zoning Commission. This action is required by Iowa law prior to making a final determination on the proposed conveyance by resolution.

This easement will allow for permanent building footing encroachments into vacated right-of-way adjoining 422 Walnut Street as part of the proposed 11-story mixed-use parking structure redevelopment of the property. There is no current or anticipated public need for the easement area to be conveyed.

FISCAL IMPACT:

Amount: \$7,590 (Revenue)

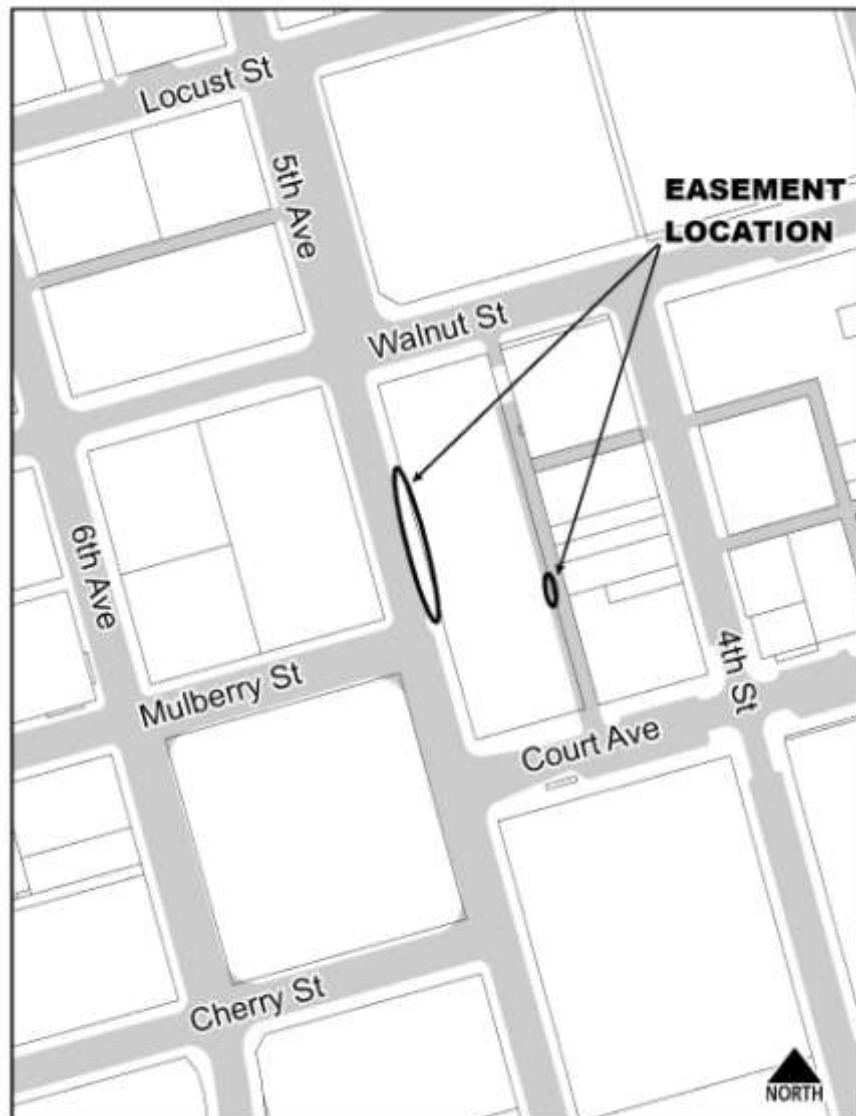
Funding Source: Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

ADDITIONAL INFORMATION:

- On March 19, 2018, City of Des Moines City Council voted to receive and file the City Plan and Zoning Commission recommendation to approve a request from 5th and Walnut Parking LLC for vacation of a 2.50-foot by 206.85-foot segment of subsurface rights within 5th Avenue west of and adjoining 422 Walnut Street and a 2.50-foot by 10-foot segment of the subsurface rights in the north/south alley east of and adjoining 422 Walnut Street all for building footings; and for vacation of a 1.50-foot by 225-foot segment of air rights within 5th Avenue west of and adjoining 422 Walnut Street for an attached shade screen; and for vacation of a 5-foot by 185.80-foot segment of air rights above 5th Avenue west of and adjoining 422 Walnut Street for an entrance canopy, all for a proposed 11-story parking structure, subject to (1) the

provision of easements for any existing utilities until such time that they are abandoned or relocated, and (2) so long as any proposed structure is constructed in compliance with an approved site plan.

- Subsequent to setting the date for the hearing and publishing notice of the proposed conveyance, 5th and Walnut Parking LLC determined that the vacation of the air rights was not needed at this time, and the public hearing on the original vacation and conveyance of both subsurface and air rights was dismissed on June 11, 2018, by Roll Call No. 18-1023.
- 5th and Walnut Parking LLC wishes only to proceed at this time with the above referenced vacation of subsurface rights and conveyance of a subsurface easement and has offered to the City the purchase price of \$7,590 for the purchase of said subsurface easement.
- The subsurface building encroachment easement area to be conveyed consists of approximately 532 square feet, and the purchase price of \$7,590 reflects the fair market value of the easement as determined by the City's Real Estate Division.



PREVIOUS COUNCIL ACTION(S):

Date: June 11, 2018

Roll Call Number: [18-1024](#)

Action: [Setting](#) date of hearing on approval of documents for vacation of portions of 5th Avenue right-of-way and alley right-of-way all adjoining 422 Walnut Street and conveyance of a Permanent Easement for Subsurface Building Encroachment to 5th and Walnut Parking, LLC, for \$7,590, (6-25-18). Moved by Boesen to adopt. Motion Carried 6-0. Council Member Mandelbaum abstains from voting based on an appearance of a conflict of interest.

BOARD/COMMISSION ACTION(S):

Board: City Plan and Zoning Commission

Date: March 1, 2018

Resolution Number: 11-2018-1.02

Action: Recommend approval of the proposed air and subsurface rights vacations subject to the provision of easements for any existing utilities until such time that they are abandoned or relocated and so long as any proposed structure is constructed in compliance with an approved Site Plan.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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