


COUNCIL COMMUNICATION

 CITY OF DES MOINES OFFICE OF THE CITY MANAGER	Number:	22-537	Meeting:	November 21, 2022
	Agenda Item:	49	Roll Call:	22-1826
	Submitted by:	Steven L. Naber, P.E., City Engineer		

AGENDA HEADING:

Hold hearing for approval of documents for vacation of a portion of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment to Lawmark, L.P. for \$102,128.

SYNOPSIS:

Recommend approval of the vacation of a portion of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment to Lawmark, L.P. (301-179 McDermot Avenue, Winnipeg, Manitoba, R3B0S1 Canada), for \$102,128, subject to the reservations of easements for utilities in place.

Conveyance of a Permanent Easement for Building Encroachment and Permanent Easement for Subsurface Building Encroachment to Lawmark, L.P. will permanently legalize existing surface and subsurface encroachments into the adjoining 7th Street, Walnut Street and Mulberry Street right-of-way from the original construction of the building in 1972.

FISCAL IMPACT:

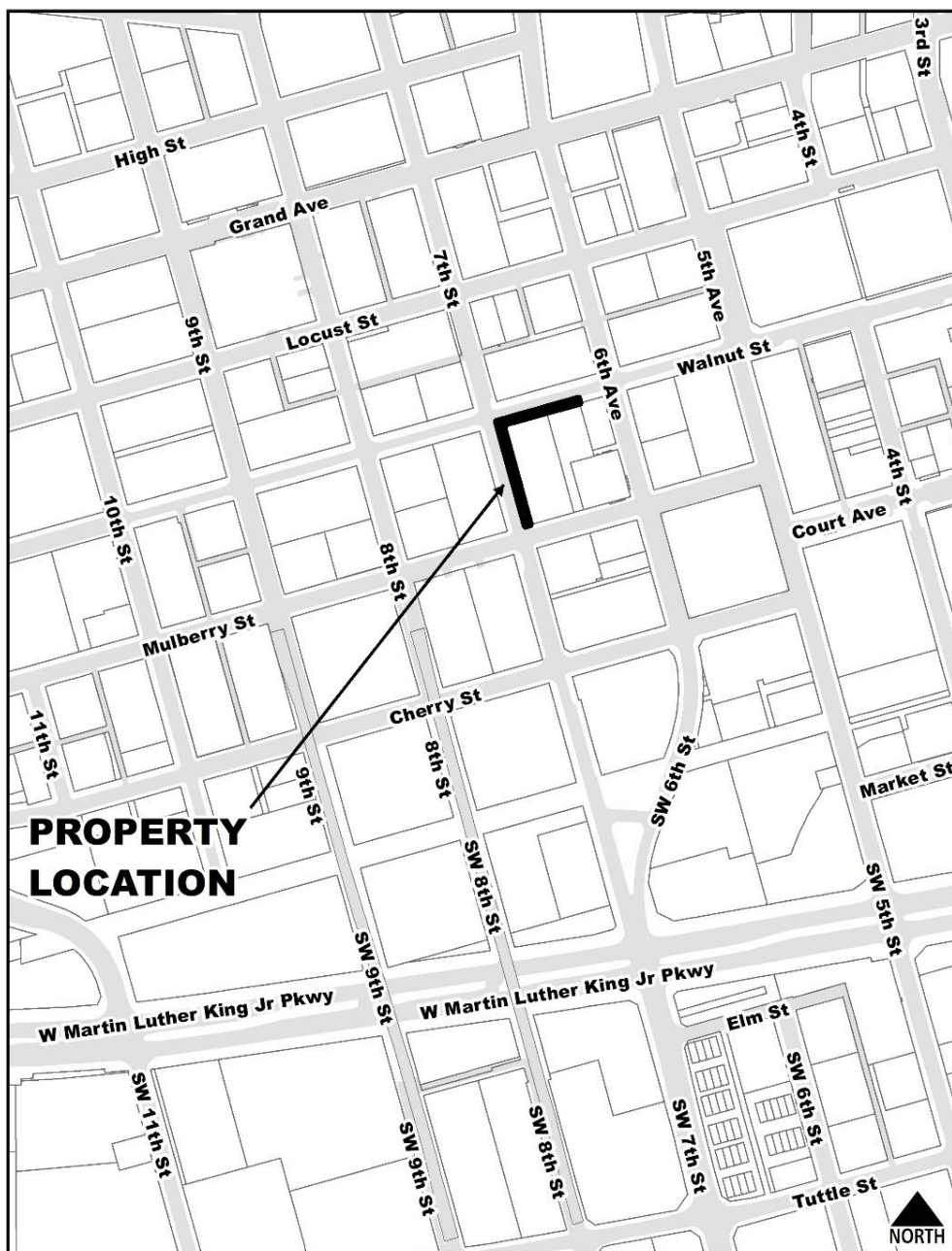
Amount: \$102,128

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

ADDITIONAL INFORMATION:

- In 1972, the David H. Murdock Development Company constructed the high-rise Financial Building at 7th and Walnut Streets. The building included underground parking that extended under the 7th Street and Walnut Street right-of-way. On August 21, 1972, the City entered into a lease agreement with David H. Murdock Development Company for an underground building encroachment. The lease contained a 50- year term that expired on August 31, 2022.
- In 2019, Lawmark, L.P. acquired the property and a subsequent boundary survey found that the face of the building also encroaches into the right-of-way along Mulberry Street and 7th Street.

- Current City policy is to convey permanent easements, instead of leases, at fair market value to legalize permanent building encroachments into right-of-way. Lawmark L.P. has agreed to terminate the existing lease agreement and purchase the referenced easements to comply with current City policy.
- The Easement for Subsurface Building Encroachment to be conveyed consists of 7,388 square feet. The Easement for Building Encroachment to be conveyed consists of 104 square feet. The purchase price for both easements is \$102,128, which is equal to the fair market value of the easements as determined by the City’s Real Estate Division.
- Lawmark L.P. shall have until October 1, 2028 to pay the purchase price of the easements in full but may pay earlier without penalty. The Offer to Purchase Easements and Acceptance will be recorded at the Polk County Recorder’s Office after approval by City Council, but the easements will not be recorded until full payment of the purchase price has been received by the City.



PREVIOUS COUNCIL ACTION(S):

Date: November 7, 2022

Roll Call Number: [22-1724](#)

Action: [On](#) vacation of a portion of 7th Street, Walnut Street and Mulberry Street right-of-way adjoining 207 7th Street and conveyance of a Permanent Easement for Building Encroachment and a Permanent Easement for Subsurface Building Encroachment to Lawmark, LP, \$102,128, (11-21-22). Moved by Gatto to adopt. Second by Boesen. Motion Carried 6-1. Absent: Cownie.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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