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Date October 9, 2006

HOLD HEARING FOR THE VACATION AND CONVEYANCE OF AN EASEMENT TO LB PROPERTIES X, L.L.C. FOR SUBSURFACE RIGHTS LOCATED IN A SIX-FOOT STRIP OF STREET AND ALLEY RIGHTS-OF-WAY ADJOINING 912 WALNUT STREET FOR \$35,000

WHEREAS, on August 21, 2006, by Roll Call No. 06-1666, the City Council adopted a recommendation from the City Plan and Zoning Commission that the subsurface rights-of-way adjoining 912 Walnut Street, within the north 6 feet of Mulberry Street, the east 6 feet of 10th Street, the south 6 feet of Walnut Street and the east 6 feet of the west 12 feet of the north/south alley (west 6 feet previously vacated), hereinafter more fully described, be vacated and sold; and

WHEREAS, the grantee identified below is the owner of property abutting such rights-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and conveyance of an easement for the subsurface rights within portions of such rights-of-way described below; and

WHEREAS, on September 25, 2006, by Roll Call No. 06-1869, it was duly resolved by the City Council that the proposed vacation and conveyance of easement for such subsurface rights be set down for hearing on October 9, 2006, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey this easement was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and 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:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of a permanent easement for subsurface rights in portions of public rights-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the subsurface rights located within public rights-of-way described below, and the public would not be inconvenienced by reason of the vacation and conveyance of subsurface rights adjoining 912 Walnut Street, within the north 6 feet of Mulberry Street, the east 6 feet of 10th Street, the south 6 feet of Walnut Street and the east 6 feet of the west 12 feet of the north/south alley (west 6 feet previously vacated), more specifically described as follows:

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The area below grade of a strip of ground in the East 6.00 feet of Lot 6, except the North 19.40 feet thereof, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat; and the East/West alley right-of-way lying South of and adjoining the East 6.00 feet of said Lot 6; and the East 6.00 feet of Lot 7, Block 2, West Fort Des Moines, an Official Plat, and the East 6.00 feet of Lots 7 and 8, Block 12, H. M. Hoxie’s Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The area below grade of a strip of ground in the South 6.00 feet of the Walnut Street right-of-way lying North of and adjoining Lots 1 through 6, except the East 6.00 feet thereof, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat; and the South 6.00 feet of the Walnut Street right-of-way lying North of and adjoining the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining said Lot 1, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The area below grade of a strip of ground in the North 6.00 feet of the Mulberry Street right-of-way lying South of and adjoining Lot 8, West Fort Des Moines, an Official Plat, and lying South of and adjoining the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining said Lot 8, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The area below grade of a strip of ground in the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining Lot 1, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat, and lying West of and adjoining the vacated East/West alley right-of-way lying South of and adjoining said Lot 1; and the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining Lots 7 and 8, H. M. Hoxie’s Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the sale and conveyance of an easement for such subsurface rights to LB Properties X, L.L.C. for \$35,000, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

DESCRIPTION APPROVED
[Signature]
10-9-06

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Date October 9, 2006

The vacated area below grade of a strip of ground in the East 6.00 feet of Lot 6, except the North 19.40 feet thereof, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat; and the East/West alley right-of-way lying South of and adjoining the East 6.00 feet of said Lot 6; and the East 6.00 feet of Lot 7, Block 2, West Fort Des Moines, an Official Plat, and the East 6.00 feet of Lots 7 and 8, Block 12, H. M. Hoxie’s Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The vacated area below grade of a strip of ground in the South 6.00 feet of the Walnut Street right-of-way lying North of and adjoining Lots 1 through 6, except the East 6.00 feet thereof, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat; and the South 6.00 feet of the Walnut Street right-of-way lying North of and adjoining the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining said Lot 1, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The vacated area below grade of a strip of ground in the North 6.00 feet of the Mulberry Street right-of-way lying South of and adjoining Lot 8, West Fort Des Moines, an Official Plat, and lying South of and adjoining the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining said Lot 8, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

And

The vacated area below grade of a strip of ground in the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining Lot 1, John A. Garver’s Subdivision of Lots 5 and 6, Block 2, West Fort Des Moines, an Official Plat, and lying West of and adjoining the vacated East/West alley right-of-way lying South of and adjoining said Lot 1; and the East 6.00 feet of the 10th Street right-of-way lying West of and adjoining Lots 7 and 8, H. M. Hoxie’s Addition to Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

DESCRIPTION APPROVED
[Signature]
9/18/06 14.75

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5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Easement, 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.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, 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.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.

8. The proceeds from the sale of this property will be deposited into the following account: 2006-07 Operating Budget, Page 310, Property Maintenance, SP767.

(Council Communication No. *06-636*)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato

 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
VLASSIS				
TOTAL				
MOTION CARRIED			APPROVED	

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.

 Mayor

 City Clerk