

Date October 10, 2016

**HOLD HEARING FOR VACATION OF A PORTION OF SOUTHEAST 4<sup>TH</sup> STREET  
RIGHT-OF-WAY ADJOINING 118 SOUTHEAST 4<sup>TH</sup> STREET AND  
CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING  
ENCROACHMENT TO EAST 4<sup>TH</sup> STREET, L.L.C.**

**WHEREAS**, on September 12, 2016, by Roll Call No. 16-1506, the City Council received and filed a recommendation from the City Plan and Zoning Commission that a portion of Southeast 4<sup>th</sup> Street right-of-way adjoining 118 Southeast 4<sup>th</sup> Street, hereinafter more fully described, be vacated subject to the reservation of any necessary easements for all existing utilities; and,

**WHEREAS**, East 4<sup>th</sup> Street, L.L.C. is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price of \$1,156.00 for the vacation of such right-of-way described below, and conveyance of a Permanent Easement for Building Encroachment; and,

**WHEREAS**, on September 26, 2016, by Roll Call No. 16-1608, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on October 10, 2016, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate and convey public right-of-way 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 of public right-of-way as described below, and conveyance of a Permanent Easement for Building Encroachment, are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion Southeast 4<sup>th</sup> Street right-of-way adjoining 118 Southeast 4<sup>th</sup> Street, more specifically described as follows, and said vacation is hereby approved:

THE WEST 6 FEET OF SE 4<sup>TH</sup> STREET RIGHT-OF-WAY LYING EAST OF AND ADJOINING THE SOUTH 0.4 FEET OF VACATED EAST/WEST ALLEY, BLOCK 4, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, AND LYING EAST OF AND ADJOINING THE NORTH 49.6 FEET OF LOT 7 IN SAID BLOCK 4, ALL

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NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES,  
POLK COUNTY, IOWA, AND CONTAINING 300 SQUARE FEET.

3. That the sale and conveyance of a Permanent Easement for Building Encroachment in such right-of-way, as legally described below, to East 4<sup>th</sup> Street, L.L.C. for \$1,156.00 together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the reservation of any necessary easements for all existing utilities:

THE WEST 6 FEET OF VACATED SE 4<sup>TH</sup> STREET RIGHT-OF-WAY LYING EAST OF AND ADJOINING THE SOUTH 0.4 FEET OF VACATED EAST/WEST ALLEY, BLOCK 4, SCOTT & DEAN'S ADDITION, AN OFFICIAL PLAT, AND LYING EAST OF AND ADJOINING THE NORTH 49.6 FEET OF LOT 7 IN SAID BLOCK 4, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND CONTAINING 300 SQUARE FEET.

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

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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment, 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 Permanent Easement for Building Encroachment and copies of the other documents to the grantee.

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

★ Roll Call Number

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(Council Communication No. 16-581)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Lisa A. Wieland*  
Lisa A. Wieland  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

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.

\_\_\_\_\_  
City Clerk