

Date October 24, 2016

SET HEARING FOR VACATION OF AIR SPACE AND SUBSURFACE RIGHTS IN PORTIONS OF STREET RIGHT-OF-WAY ADJOINING 220 SOUTHEAST 6TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE WITHIN EAST ELM STREET AND SOUTHEAST 6TH STREET RIGHT-OF-WAY, AND CONVEYANCE OF A PERMANENT SUBSURFACE EASEMENT WITHIN EAST ELM STREET AND SOUTHEAST 5TH STREET RIGHT-OF-WAY, ALL ADJOINING 220 SOUTHEAST 6TH STREET, TO 220 SE 6TH STREET PROPERTIES, LLC FOR \$732.00

WHEREAS, 220 SE 6th Street Properties, LLC is the owner of the real property locally known as 220 Southeast 6th Street, which property is being developed with a new office building with structured parking; and

WHEREAS, 220 SE 6th Street Properties, LLC has requested the vacation of air space and subsurface rights in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way all adjoining 220 Southeast 6th Street, hereinafter more fully described (collectively "City Right-of-Way"), and has further requested that the City of Des Moines, Iowa ("City") convey unto 220 SE 6th Street Properties, LLC a Permanent Easement For Air Space Above City-Owned Property in the vacated portion of Southeast 6th Street and East Elm Street right-of-way, and a Permanent Subsurface Easement for Building Encroachment in the vacated Southeast 5th Street and East Elm Street right-of-way, all adjoining 220 Southeast 6th Street, hereinafter more fully described, in order to allow for entrance canopy and building parapet encroachments and building footing and foundation encroachments into the City Right-of-Way; and

WHEREAS, 220 SE 6th Street Properties, LLC has offered to the City the purchase price of \$732.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in the vacated portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way, all adjoining 220 Southeast 6th Street, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating air space and subsurface rights in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way, all adjoining 220 Southeast 6th Street, more specifically described as follows:



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SUBSURFACE:

EXH-1

A ONE FOOT SUBSURFACE FOOTING EASEMENT BEING A PART OF EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE S14°54'27"E, 1.00 FEET; THENCE S74°58'01"W, 206.02 FEET; THENCE N15°01'59"W, 1.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF EAST ELM STREET; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N74°58'01"E, 206.02 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 206 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, ORDINANCES, AND RESTRICTIONS OF RECORD;

EXH-2

A ONE FOOT SUBSURFACE FOOTING EASEMENT BEING A PART OF SOUTHEAST 5TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF MARKET SQUARE OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE S74°58'01"W, 1.00 FEET; THENCE N14°48'50"W, 13.50 FEET; THENCE N74°58'01"E, 1.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 5TH STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE S14°48'50"E, 13.50 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 14 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, ORDINANCES, AND RESTRICTIONS OF RECORD;

AIR SPACE:

EXH-3

A FOUR FOOT AIR RIGHTS EASEMENT BEING A PART OF EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF EAST ELM STREET S74°58'01"W, 167.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE S74°58'01"W, 26.00 FEET; THENCE S15°01'59"E, 4.00 FEET; THENCE N74°58'01"E, 26.00 FEET; THENCE N15°01'59"W, 4.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 104 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, ORDINANCES, AND RESTRICTIONS OF RECORD.

ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF CANOPY ELEVATION IS APPROXIMATELY 29.37 FEET (CITY OF DES MOINES VERTICAL DATUM), AND THE TOP OF CANOPY ELEVATION IS APPROXIMATELY 31.05 FEET (CITY OF DES MOINES VERTICAL DATUM);

EXH-4

A TWO FOOT AIR RIGHTS EASEMENT BEING A PART OF SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE WEST RIGHT-OF-WAY OF SOUTHEAST 6TH STREET N14°54'27"W, 53.45 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE N14°54'27"W, 11.10 FEET; THENCE N75°05'33"E, 2.00 FEET; THENCE S14°54'27"E, 11.10 FEET; THENCE S75°05'33"W, 2.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 22 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, ORDINANCES, AND RESTRICTIONS OF RECORD.

ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF CANOPY ELEVATION IS APPROXIMATELY 32.42 FEET (CITY OF DES MOINES VERTICAL DATUM), AND THE TOP OF CANOPY ELEVATION IS APPROXIMATELY 33.69 FEET (CITY OF DES MOINES VERTICAL DATUM);

EXH-5

A ONE FOOT AIR RIGHTS EASEMENT BEING A PART OF SOUTHEAST 6TH STREET RIGHT-OF-WAY LYING BETWEEN EAST ELM STREET AND EAST MARKET STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL

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PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTH HALF OF THE SOUTH HALF OF SAID MARKET SQUARE IN THE TOWN OF DE MOINE; THENCE ALONG THE WEST RIGHT-OF-WAY OF SOUTHEAST 6TH STREET N14°54'27"W, 50.58 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE N14°54'27"W, 70.04 FEET; THENCE N75°05'33"E, 1.00 FEET; THENCE S14°54'27"E, 70.04 FEET; THENCE S75°05'33"W, 1.00 FEET TO THE POINT OF BEGINNING. DESCRIBED EASEMENT CONTAINS 70 SQUARE FEET AND IS SUBJECT TO OTHER EASEMENTS, ORDINANCES, AND RESTRICTIONS OF RECORD.

ASSUMING A FINISHED FLOOR ELEVATION OF 18.45 FEET (CITY OF DES MOINES VERTICAL DATUM), THE BOTTOM OF PARAPET ELEVATION IS APPROXIMATELY 63.45 FEET (CITY OF DES MOINES VERTICAL DATUM), AND A TOP OF PARAPET ELEVATION IS APPROXIMATELY 65.14 FEET (CITY OF DES MOINES VERTICAL DATUM);

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines further proposes to convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in portions of Southeast 5th Street, Southeast 6th Street and East Elm Street right-of-way, all adjoining 220 Southeast 6th Street, as legally described as follows, to 220 SE 6th Street Properties, LLC for \$732.00, subject to the requirements of the Offer to Purchase and the City Plan and Zoning Commission review:

SUBSURFACE:

EXH-1

A ONE FOOT SUBSURFACE FOOTING EASEMENT BEING A PART OF THE VACATED EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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A FOUR FOOT AIR RIGHTS EASEMENT BEING A PART OF THE VACATED EAST ELM STREET RIGHT-OF-WAY LYING BETWEEN SOUTHEAST 5TH STREET AND SOUTHEAST 6TH STREET BEING LOCATED IN MARKET SQUARE IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be on November 7, 2016, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Lisa A. Wieland, Assistant City Attorney

PRW

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

MOTION CARRIED APPROVED

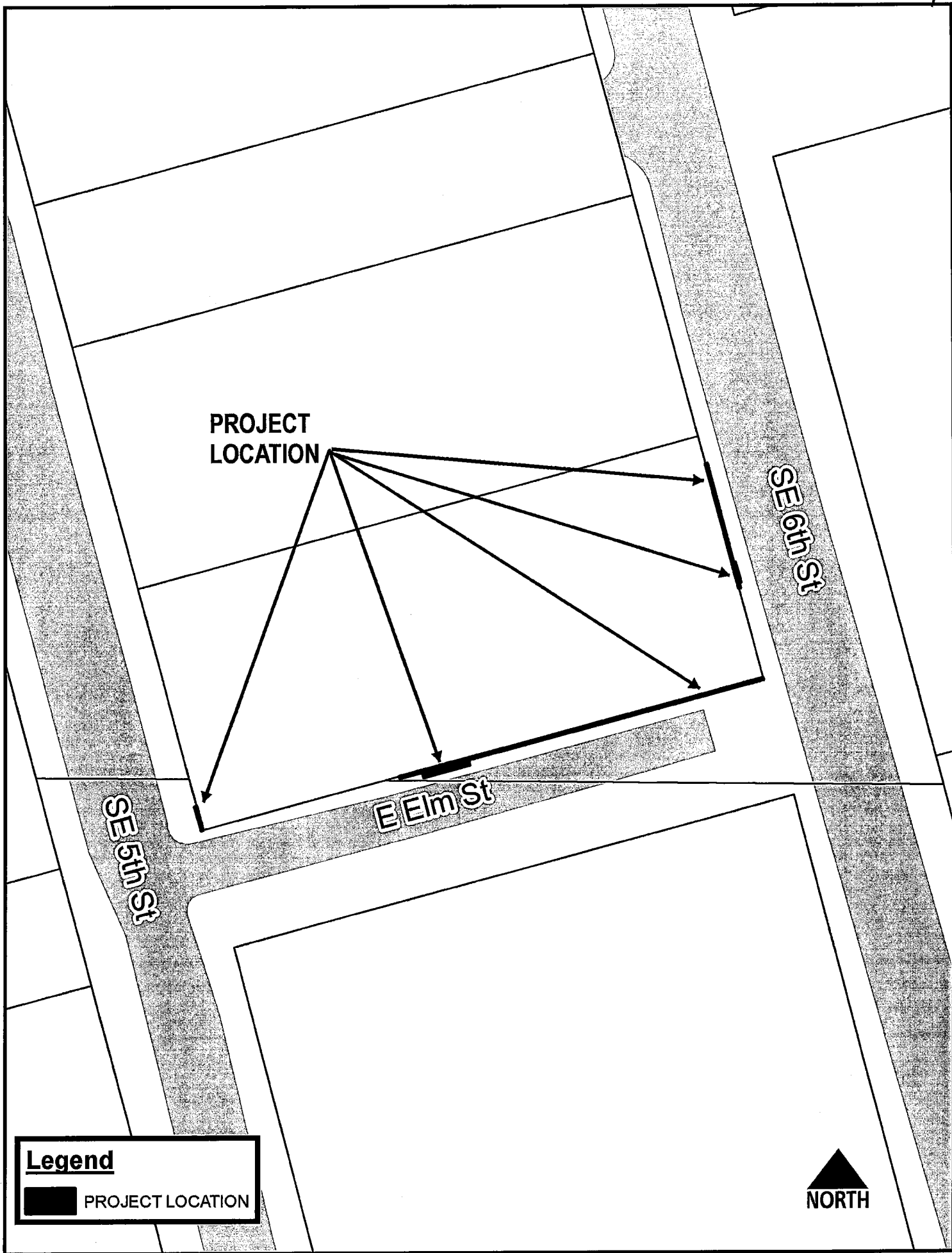
Mayor

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



PROJECT
LOCATION

SE 6th St

SE 5th St

E Elm St

Legend

PROJECT LOCATION

