

Date November 7, 2016

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**HOLD HEARING FOR VACATION OF A PORTION OF ALLEY RIGHT-OF-WAY
ADJOINING 1605 WOODLAND AVENUE AND CONVEYANCE OF A PERMANENT
EASEMENT FOR BUILDING ENCROACHMENT TO OYORAM VISUAL ARTIST,
L.L.C., FOR \$50.00**

WHEREAS Oyoram Visual Artist, L.L.C., the owner of 1605 Woodland Avenue, has offered to the City of Des Moines, Iowa, ("City") the purchase price of \$50.00 for the purchase of a Permanent Easement for Building Encroachment in a segment of alley right-of-way adjoining 1605 Woodland Avenue (hereinafter "Property") in order to mitigate an existing building encroachment into the Property, which price reflects the fair market value of said portion of vacated alley right-of-way as currently determined by the City's Real Estate Division; and

WHEREAS, the Property proposed to be vacated and conveyed has been determined by the City Engineer and City Traffic Engineer to have no significant impact on public access, there is no known current or future public need for the alley right-of-way proposed to be vacated, and the City will not be inconvenienced by the conveyance of a Permanent Easement for Building Encroachment in said Property; and

WHEREAS, on October 24, 2016, by Roll Call No. 16-1816, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City right-of-way be set for hearing on November 7, 2016, at 5:00 p.m., in the City Council Chambers; 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 alley 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 alley right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a segment of alley right-of-way adjoining 1605 Woodland Avenue, more specifically described as follows, and said vacation is hereby approved:

THE SOUTH 1 FOOT OF ALLEY RIGHT OF WAY LYING NORTH OF AND
ADJOINING LOTS 1 AND 2 IN SUBDIVISION OF LOT 4 OF 4.94 ACRES OF THE

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PURSLEY ESTATE IN THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., (ALSO KNOWN AS THE IOWA LOAN & TRUST COMPANY'S SUBDIVISION) ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the sale and conveyance of a Permanent Easement for Building Encroachment in such right-of-way, as legally described below, to Oyoram Visual Artist, L.L.C. for \$50.00 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 easements for all existing utilities therein:

THE SOUTH 1 FOOT OF VACATED ALLEY RIGHT OF WAY LYING NORTH OF AND ADJOINING LOTS 1 AND 2 IN SUBDIVISION OF LOT 4 OF 4.94 ACRES OF THE PURSLEY ESTATE IN THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 5, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., (ALSO KNOWN AS THE IOWA LOAN & TRUST COMPANY'S SUBDIVISION) 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 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

Agenda Item Number

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(Council Communication No. 16- 634)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PTW

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