

.....
Date May 21, 2018

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF 5TH AVENUE AND ALLEY RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO 5TH AND WALNUT PARKING LLC FOR \$38,630.00

WHEREAS, 5th and Walnut Parking LLC is the owner of the real property locally known as 422 Walnut Street, Des Moines, Iowa, which property is being developed with a new 11-story mixed-use parking structure; and

WHEREAS, 5th and Walnut Parking LLC has requested the vacation of air space and subsurface rights in portions of 5th Avenue right-of-way and alley right-of-way adjoining 422 Walnut Street, hereinafter more fully described ("City Right-of-Way"), and has further requested that the City of Des Moines, Iowa ("City") convey unto 5th and Walnut Parking LLC a Permanent Easement For Air Space Above City-Owned Property and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (collectively "Easements"), in the vacated City Right-of-Way, hereinafter more fully described, in order to allow for entrance canopy and sunshade projection encroachments as well as subsurface building footing encroachments into the City Right-of-Way; and

WHEREAS, 5th and Walnut Parking LLC has offered to the City the purchase price of \$38,360.00 for the purchase of said Easements, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

WHEREAS, the City will not be inconvenienced by the proposed vacation and conveyance of said Easements.

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 5th Avenue right-of-way and alley right-of-way adjoining 422 Walnut Street, more specifically described as follows:

AIR RIGHTS CANOPY LEGAL DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Date May 21, 2018

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 92.55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°25' 01" EAST ALONG SAID WEST LINE, 185.80 FEET; THENCE SOUTH 74°34' 59" WEST, 5.00 FEET; THENCE NORTH 15°25' 01" WEST, 185.80 FEET; THENCE NORTH 74°34' 59" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 929 S.F. LYING BETWEEN ELEVATIONS 42.00 AND 49.00 FEET CITY OF DES MOINES DATUM (REFERENCE GROUND ELEVATION OF 32.90 FEET AT BUILDING ENTRANCE ON 5TH AVENUE).

AIR RIGHTS GRADE SCREEN LEGAL DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 76.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°25' 01" EAST ALONG SAID WEST LINE, 225.00 FEET; THENCE SOUTH 74°34' 59" WEST, 1.50 FEET; THENCE NORTH 15°25' 01" WEST, 225.00 FEET; THENCE NORTH 74°34' 59" EAST, 1.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 338 S.F. LYING BETWEEN ELEVATIONS 46.00 AND 144.00 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 32.90 FEET AT BUILDING ENTRANCE ON 5TH AVENUE).

SUBSURFACE EASEMENT DESCRIPTION:

AREA "A"

ALL OF THE SUBSURFACE SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Date May 21, 2018

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 98.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15° 25' 01" EAST, 206.85 FEET; THENCE SOUTH 74° 34' 59" WEST, 2.50 FEET; THENCE NORTH 15° 25' 01" WEST, 206.85 FEET; THENCE NORTH 74° 34' 59" EAST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 517 S.F.

AREA "B"

ALL OF THE SUBSURFACE SPACE FOR THAT PART OF THE EXISTING ALLEY RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF LOT 5, BLOCK 21 AND ADJACENT TO AND EAST OF THE EAST-WEST VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5 OF SAID BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE ARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 21; THENCE NORTH 15°23'28" WEST ALONG THE EAST LINE OF LOTS 6 AND 5 OF SAID BLOCK 21, A DISTANCE OF 129.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°23' 28" WEST ALONG SAID EAST LINE AND ALONG THE NORTHERLY EXTENSION OF SAID EAST LINE BEING THE EASTERLY LINE OF SAID VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5, A DISTANCE OF 10.00 FEET; THENCE NORTH 74°34' 59" EAST, 2.50 FEET; THENCE SOUTH 15°23' 28" EAST, 10.00 FEET; THENCE SOUTH 74°34' 59" WEST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 25 S.F.

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 Easement for Subsurface Building Encroachment on City-Owned Property, legally described as follows, to 5th and Walnut Parking LLC, in consideration of \$38,360.00, subject to the requirements of the Offer to Purchase and the requirements of the City Plan and Zoning Commission:

AIR RIGHTS CANOPY LEGAL DESCRIPTION:

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

.....
Date May 21, 2018.....

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 92.55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°25' 01" EAST ALONG SAID WEST LINE, 185.80 FEET; THENCE SOUTH 74°34' 59" WEST, 5.00 FEET; THENCE NORTH 15°25' 01" WEST, 185.80 FEET; THENCE NORTH 74°34' 59" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 929 S.F. LYING BETWEEN ELEVATIONS 42.00 AND 49.00 FEET CITY OF DES MOINES DATUM (REFERENCE GROUND ELEVATION OF 32.90 FEET AT BUILDING ENTRANCE ON 5TH AVENUE).

AIR RIGHTS GRADE SCREEN LEGAL DESCRIPTION:

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 76.99 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15°25' 01" EAST ALONG SAID WEST LINE, 225.00 FEET; THENCE SOUTH 74°34' 59" WEST, 1.50 FEET; THENCE NORTH 15°25' 01" WEST, 225.00 FEET; THENCE NORTH 74°34' 59" EAST, 1.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 338 S.F. LYING BETWEEN ELEVATIONS 46.00 AND 144.00 FEET CITY OF DES MOINES VERTICAL DATUM (REFERENCE GROUND ELEVATION OF 32.90 FEET AT BUILDING ENTRANCE ON 5TH AVENUE).

SUBSURFACE EASEMENT DESCRIPTION:

AREA "A"

ALL OF THE VACATED SUBSURFACE SPACE FOR THAT PART OF THE EXISTING 5TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

.....
Date May 21, 2018

COMMENCING AT THE NORTHWEST CORNER OF SAID BLOCK 21; THENCE SOUTH 15°25'01" EAST ALONG THE WEST LINE OF SAID BLOCK 21, A DISTANCE OF 98.93 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 15° 25' 01" EAST, 206.85 FEET; THENCE SOUTH 74° 34' 59" WEST, 2.50 FEET; THENCE NORTH 15° 25' 01" WEST, 206.85 FEET; THENCE NORTH 74° 34' 59" EAST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 517 S.F.

AREA "B"

ALL OF THE VACATED SUBSURFACE SPACE FOR THAT PART OF THE EXISTING ALLEY RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF LOT 5, BLOCK 21 AND ADJACENT TO AND EAST OF THE EAST-WEST VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5 OF SAID BLOCK 21, FORT DES MOINES, AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND BEING MORE ARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 6 OF SAID BLOCK 21; THENCE NORTH 15°23'28" WEST ALONG THE EAST LINE OF LOTS 6 AND 5 OF SAID BLOCK 21, A DISTANCE OF 129.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°23' 28" WEST ALONG SAID EAST LINE AND ALONG THE NORTHERLY EXTENSION OF SAID EAST LINE BEING THE EASTERLY LINE OF SAID VACATED ALLEY RIGHT-OF-WAY NORTH OF SAID LOT 5, A DISTANCE OF 10.00 FEET; THENCE NORTH 74°34' 59" EAST, 2.50 FEET; THENCE SOUTH 15°23' 28" EAST, 10.00 FEET; THENCE SOUTH 74°34' 59" WEST, 2.50 FEET TO THE POINT OF BEGINNING AND CONTAINING APPROXIMATELY 25 S.F.

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 June 11, 2018, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, 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.

★ Roll Call Number

Agenda Item Number

31

Page 6

Date May 21, 2018

Moved by _____ to adopt.

APPROVED AS TO FORM:



 Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
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