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Date May 21, 2018

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF
SUBSURFACE RIGHTS IN A PORTION OF EAST GRAND AVENUE RIGHT-OF-
WAY AND A PORTION OF EAST 2ND STREET RIGHT-OF-WAY ALL ADJOINING
111 EAST GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT
FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY
TO 111 EAST GRAND, LLC FOR \$12,345.00**

WHEREAS, on May 3, 2018, the City of Des Moines Plan and Zoning Commission, voted to recommend approval of request from 111 East Grand, LLC, represented by Tim Rypma (officer) for vacation of the subsurface rights in the west 2 feet of East 2nd Street right-of-way, and the subsurface rights in the south 2 feet of East Grand Avenue right-of-way adjoining 111 East Grand Avenue, Des Moines, Iowa (hereinafter “City Property”) to allow for building footing encroachments, (hereinafter “City Property”); and

WHEREAS, 111 East Grand, LLC, owner of 111 East Grand Avenue, has offered to the City the purchase price of \$12,345.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-owned Property (hereinafter “Easement”) in said City Property, hereinafter more fully described, to allow for construction and maintenance of building footings encroaching into the City Property; which price reflects the fair market value of the Easement as determined by the City’s Real Estate Division; and

WHEREAS, there is no public need or benefit for the subsurface rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property within said City Property.

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

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the subsurface rights in the west 2 feet of East 2nd Street right-of-way, and the subsurface rights in the south 2 feet of East Grand Avenue right-of-way adjoining 111 East Grand Avenue, legally described as follows:

THE EAST 2ND STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

THE WEST 2.0 FEET OF SAID VACATED RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE EAST LINE OF SAID PARCEL 2016-20; ALL CONTAINING 566 SQUARE FEET MORE OR LESS.

AND

THE EAST GRAND AVENUE PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN

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BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

THE SOUTH 2.0 FEET OF SAID VACATED RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO THE NORTH LINE OF SAID PARCEL 2016-20; ALL CONTAINING 720 SQUARE FEET MORE OR LESS.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated street right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: 111 East Grand, LLC
Consideration: \$12,345.00

Legal Description:

SUBSURFACE RIGHTS EASEMENT IN THE VACATED EAST 2ND STREET PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

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AND

SUBSURFACE RIGHTS EASEMENT IN THE VACATED EAST GRAND AVENUE PUBLIC RIGHT OF WAY LYING DIRECTLY ADJACENT TO PARCEL 2016-20, BLOCK 3, EAST FORT DES MOINES, AN OFFICIAL PLAT OF SURVEY RECORDED IN BOOK 15934, PAGE 39, AT THE POLK COUNTY RECORDERS OFFICE IN THE CITY OF DES MOINES, POLK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS:

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3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such permanent easement for building encroachment 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 proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

★ **Roll Call Number**

Agenda Item Number

3a

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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

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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