



**Roll Call Number**

**Agenda Item Number**

60

**Date** June 3, 2019

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF AN EASEMENT FOR SET BACK FOR BUILDING AND FIRE CODE PURPOSES AND A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT OVER AND WITHIN A PORTION OF EXCESS CITY PROPERTY LOCATED WEST OF AND ADJOINING 1011 LOCUST STREET TO THE TEMPLE PARTNERS, L.P. FOR \$8,400.00**

**WHEREAS**, on April 22, 2002, by Roll Call No. 02-1066, the City Council of the City of Des Moines, Iowa, passed Ordinance No. 14,078 vacating that portion of the north-south alley right-of-way located west of and adjoining 1011 Locust Street, (hereinafter "City Right-of-Way") subject to the reservation of any necessary easements for all existing utilities in place until such time that they are abandoned or are relocated; and

**WHEREAS**, The Temple Partners, L.P., owner of the adjoining property at 1011 Locust Street, has offered to the City the purchase price of \$8,400.00 for the purchase of an Easement & Set Back for Building and Fire Code Purposes and a Permanent Easement for Building Encroachment in said City Right-of-Way and other adjoining City property, hereinafter more fully described, in order to establish the required Building and Fire Code building separation distance and emergency egress, and to allow The Temple Partners, L.P., its tenants or contractors to install, operate, maintain, or repair a sidewalk café area within a portion of the City Right-of-Way, which price reflects the fair market value of the Easement & Set Back for Building and Fire Code Purposes and a Permanent Easement for Building Encroachment as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need or benefit for the property rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Easement & Set Back for Building and Fire Code Purposes and a Permanent Easement for Building Encroachment; and

**WHEREAS**, on May 20, 2019 by Roll Call No. 19-0794, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance be set down for hearing on June 3, 2018, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to convey the Property was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in the proposed 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, as follows:



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1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of the Easement & Set Back for Building and Fire Code Purposes and a Permanent Easement for Building Encroachment on excess City property located west of and adjoining 1011 Locust Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the property rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of an Easement & Set Back for Building and Fire Code Purposes and a Permanent Easement for Building Encroachment on excess City property located west of and adjoining 1011 Locust Street, Des Moines, Iowa, legally described as follows, to The Temple Partners, L.P. for \$8,400.00, and said conveyance is hereby approved, subject to reservation of easements for all existing utilities in place until such time that they are abandoned or relocated, which shall be reserved in the quit claim deed to Buyer:

Easement & Set Back for Building and Fire Code Purposes:

Benefited Property (1011 Locust Street):

Lots 1 and 2 in Block 3 in Campbell and McMullen's Addition to the Town of Fort Des Moines; and the East 0.5 feet of the South 112.0 feet of the vacated North/South alley right-of-way lying West of and adjoining Lots 1 and 2 in in Block 3 in Campbell and McMullen's Addition to the Town of Fort Des Moines, an Official Plat, now in and forming a part of the City of Des Moines, Polk County, Iowa.

Burdened Property (1000 Grand Avenue):

Lots 7 and 8 in Block 3 in Campbell and McMullen's Addition to the Town of Fort Des Moines an Official Plat, now in and forming a part of the City of Des Moines, Polk County, Iowa.

Permanent Easement for Building Encroachment:

Part of the vacated north-south alley lying West of and adjoining Lots 1 and 2 in Block 3 of Campbell and McMullen's Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of Lot 1 in said Block 3 of Campbell and McMullen's Addition; thence South 74°(degrees) 13'(minutes) 04"(seconds) West, 0.50 feet along the South line of said Lot 1 extended to the Point of Beginning; thence North 15°18'56" West, 16.00 feet along a line that is parallel to and 0.50' westerly of the West line of said Lot 1; thence South 74°41'04" West, 15.00 feet; thence South 15°18'56" East, 16.12 feet to the South line of said Lot 1 extended; thence North 74°13'04" East, 15.00 feet along the South line of said Lot 1 extended to the point of beginning. Containing 241 square feet, more or less.

3. The Mayor is authorized and directed to sign the Easement & Set Back for Building and Fire Code Purposes and the Permanent Easement for Building Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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4. The Real Estate Division Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.
5. 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 Easement & Set Back for Building and Fire Code Purposes and 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 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 Easement & Set Back for Building and Fire Code Purposes and 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 Easement & Set Back for Building and Fire Code Purposes and 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.
- 9.

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

APPROVED AS TO FORM:

  
 Thomas G. Fisher, Jr., Assistant City Attorney

PSW

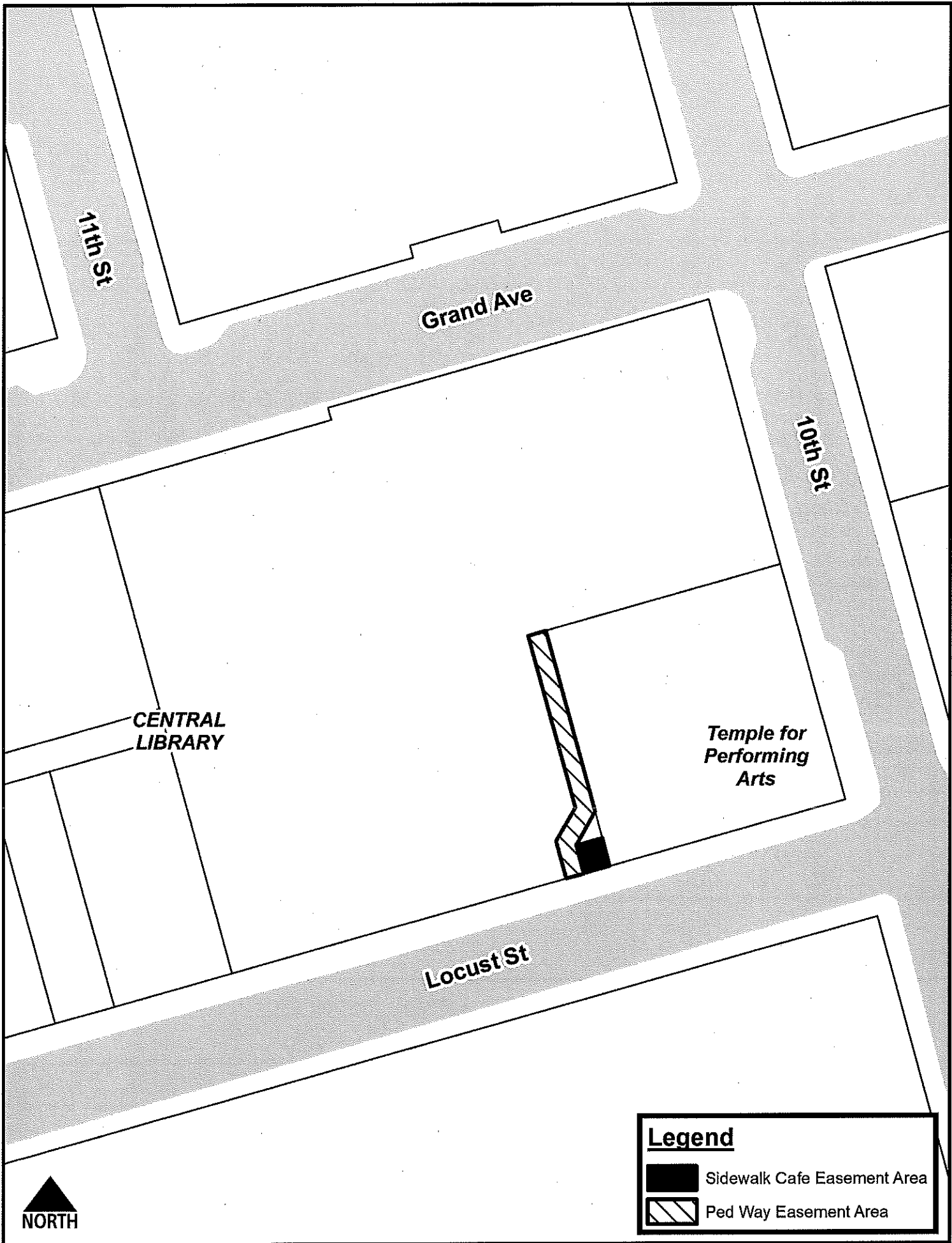
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED	APPROVED			
Mayor				

**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



11th St

Grand Ave



10th St

CENTRAL LIBRARY

Temple for Performing Arts

Locust St

**Legend**

-  Sidewalk Cafe Easement Area
-  Ped Way Easement Area

