

Date April 21, 2025

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SURFACE RIGHTS WITHIN A PORTION OF COLLEGE AVENUE RIGHT-OF-WAY ADJOINING 1601 6<sup>TH</sup> AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO INDIGO DAWN, L.L.C. FOR \$300.00**

**WHEREAS**, Indigo Dawn, L.L.C., the owner of 1601 6<sup>th</sup> Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate surface rights in a portion of College Avenue right-of-way adjoining 1601 6<sup>th</sup> Avenue, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

**WHEREAS**, Indigo Dawn, L.L.C. has offered to the City the purchase price of \$300.00 for the purchase of a Permanent Easement for Surface Building Encroachment on City-Owned Property (“Easement”) over, through and across a portion of College Avenue right-of-way adjoining 1601 6<sup>th</sup> Avenue (hereinafter “Easement Area”) for the purpose of purpose of operating, maintaining and updating the facade of the building at 1601 6<sup>th</sup> Avenue, which price reflects the fair market value of the Easement as determined by the City’s Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the College Avenue right-of-way proposed to be vacated, and the City will not be inconvenienced by the vacation of said property and the conveyance of the Easement in such vacated right-of-way; and

**WHEREAS**, on April 7, 2025, by Roll Call No. 25-0499, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and the conveyance of a Permanent Easement for Surface Building Encroachment on City-Owned Property be set for hearing on April 21, 2025, 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 vacate the College Avenue right-of-way and convey the Easement 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 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of surface rights in a portion of College Avenue right-of-way adjoining 1601 6<sup>th</sup> Avenue, as described herein, are hereby overruled and the hearing is closed.

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2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of surface rights within a portion of College Avenue right-of-way adjoining 1601 6<sup>th</sup> Avenue, legally described as follows, and said vacation is hereby approved:

PART OF THE RIGHT-OF-WAY OF COLLEGE AVENUE BEING PART OF THE SOUTH 30 FEET OF LOT 12 IN BLOCK 3 OF THE OFFICIAL PLAT OF THE SW ¼ OF THE NE ¼ OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST, 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 THE NORTH 45 FEET OF THE SOUTH 75 FEET OF THE WEST 84 FEET OF SAID LOT 12, BEING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE AND THE EAST RIGHT-OF-WAY LINE OF 6<sup>TH</sup> AVENUE; THENCE SOUTH 89°46'59" EAST, 0.76 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°46'59" EAST, 60.84 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE; THENCE SOUTH 00°13'01" WEST, 1.25 FEET; THENCE NORTH 89°46'59" WEST, 60.84 FEET; THENCE NORTH 00°13'01" EAST, 1.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 76 SQUARE FEET.

3. The proposed conveyance of the Permanent Easement for Surface Building Encroachment on City-Owned Property in such vacated street right-of-way, as legally described below, to Indigo Dawn, L.L.C. for \$300.00 subject to any and all easements, restrictions and covenants of record, is hereby approved:

PART OF THE VACATED RIGHT-OF-WAY OF COLLEGE AVENUE BEING PART OF THE SOUTH 30 FEET OF LOT 12 IN BLOCK 3 OF THE OFFICIAL PLAT OF THE SW ¼ OF THE NE ¼ OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST, 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 THE NORTH 45 FEET OF THE SOUTH 75 FEET OF THE WEST 84 FEET OF SAID LOT 12, BEING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE AND THE EAST RIGHT-OF-WAY LINE OF 6<sup>TH</sup> AVENUE; THENCE SOUTH 89°46'59" EAST, 0.76 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF COLLEGE AVENUE TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89°46'59" EAST, 60.84 FEET ALONG THE NORTH RIGHT-OF-WAY

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LINE OF COLLEGE AVENUE; THENCE SOUTH 00°13'01" WEST, 1.25 FEET;  
THENCE NORTH 89°46'59" WEST, 60.84 FEET; THENCE NORTH 00°13'01"  
EAST, 1.25 FEET TO THE POINT OF BEGINNING.

CONTAINING 76 SQUARE FEET.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Surface Building Encroachment on City-Owned Property, as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City 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.
6. 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 Permanent Easement for Surface Building Encroachment on City-Owned Property, 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.
7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Surface Building Encroachment on City-Owned Property, 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.
8. 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 Surface Building Encroachment on City-Owned Property and a copy of the other documents to the grantee.
9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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

APPROVED AS TO FORM:

/s/ Grant Hyland  
Grant Hyland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, Laura Baumgartner, 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.

\_\_\_\_\_ Laura Baumgartner, City Clerk

