

Date May 7, 2012

SET HEARING FOR VACATION AND CONVEYANCE OF A SUBSURFACE PORTION OF EAST WALNUT STREET FOR A PERMANENT SUBSURFACE EASEMENT FOR FAT, OIL AND GREASE (FOG) INTERCEPTOR ADJOINING 101 EAST LOCUST STREET (EMBASSY SUITES) TO ATRIUM FINANCE III, L.P. FOR \$2,700

WHEREAS, on May 7, 2012, by Roll Call No. 12-0693, the City Council received the recommendation from the Plan and Zoning Commission to vacate a subsurface portion of East Walnut Street adjoining the property locally known as 101 East Locust Street (Embassy Suites Hotel), subject to acquisition by Atrium Finance III, L.P. of a subsurface easement in said area for a fat, oil and grease discharge (FOG) interceptor as required by Des Moines Municipal Code Sections 118-421 et seq.; and

WHEREAS, Atrium Finance III, L.P., is the owner of the real property locally known as 101 East Locust Street that abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$2,700 for the vacation and purchase of a permanent easement within a subsurface portion of East Walnut Street, as legally described below, for the purpose of installing, operating, and maintaining a FOG Interceptor as a building improvement to the Embassy Suites Hotel, which purchase price reflects the fair market value of the easement interest as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the subsurface portion of the right-of-way proposed to be vacated and sold by easement, and the City will not be inconvenienced by the vacation and sale by easement of said property.

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 shall consider adoption of an ordinance permanently vacating a subsurface portion of East Walnut Street adjoining the property locally known as 101 East Locust Street, more specifically described as follows:

A RECTANGULAR PORTION OF THE EAST WALNUT STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 10, BLOCK F, SCOTT AND DEAN'S ADDITION, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE ACCURATELY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 1, BLOCK F, IN SAID SCOTT AND DEAN'S ADDITION; THENCE NORTH 74°(DEGREES)29'(MINUTES)16"(SECONDS) EAST ASSUMED FOR THIS DESCRIPTION ALONG THE SOUTH LINE OF BLOCK F OF SAID SCOTT AND DEAN'S ADDITION, A DISTANCE OF 166.59 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°29'16" EAST ALONG THE SOUTH LINE OF SAID BLOCK F, A DISTANCE OF 45.00 FEET; THENCE SOUTH 15°30'44" EAST, A DISTANCE OF 6.00 FEET; THENCE SOUTH 74°29'16" WEST PARALLEL WITH AND 6.00 FEET SOUTH OF THE SOUTH LINE OF SAID BLOCK F, A DISTANCE OF 45.00 FEET; THENCE NORTH 15°30'44" WEST, A DISTANCE OF 6.00 FEET TO THE POINT OF BEGINNING.

2. That if the City Council decides to vacate the above described subsurface portion of City right-of-way, the City of Des Moines further proposes to convey a permanent subsurface easement for FOG interceptor within such vacated area to Atrium Finance III, L.P. for \$2,700, all in accordance with the requirements of the Plan and Zoning Commission recommendation.

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3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such permanent subsurface easement is to be considered shall be on May 21, 2012, said meeting to be held at 5:00 p.m., in the Council Chamber.

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 Section 362.3 of the Iowa Code.

5. The proceeds from the sale of this property shall be deposited into the following account: Property Maintenance Endowment Fund, SP767, ENG980500.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Glenna K. Frank

Glenna K. Frank, Assistant City Attorney

BSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.

Diane Rauh City Clerk

T. M. Franklin Mayor