



★ **Roll Call Number**
..... 13-0552

Agenda Item Number
..... 19

Date April 8, 2013

**SET HEARING FOR VACATION AND CONVEYANCE OF A SUBSURFACE EASEMENT
ALONG GRAND AVENUE ADJOINING 430 GRAND AVENUE TO EMM ASSOCIATES, L.P.
FOR THE ELSIE MASON MANOR REDEVELOPMENT PROJECT FOR \$1,250**

WHEREAS, EMM Associates, L.P. is the purchaser of the real property locally known as 430 Grand Avenue, and has offered to the City of Des Moines the purchase price of \$1,250 for the vacation and purchase of an easement for subsurface building encroachment within the subsurface portion of City right-of-way along Grand Avenue adjoining 430 Grand Avenue, as legally described below, for the purpose of constructing, operating and maintaining elevator shaft footings for the Elsie Mason Manor Redevelopment Project, which price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, EMM Associates, L.P. and the City Real Estate Division have negotiated an Offer to Purchase which includes, among other terms, closing subject to the condition that EMM Associates, L.P. closes on the purchase of and demonstrates ownership of 430 Grand Avenue; and

WHEREAS, such subsurface portion of City-owned Grand Avenue has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of Grand Avenue, and the City will not be inconvenienced by the vacation and sale of said easement.

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 City right-of-way along Grand Avenue adjoining the property locally known as 430 Grand Avenue, more specifically described as follows:

A SUBSURFACE PORTION OF GRAND AVENUE RIGHT-OF-WAY DESCRIBED AS FOLLOWS:

THE WEST 20 FEET OF THE EAST 72.25 FEET OF THE SOUTH 2.5 FEET OF THE NORTH 7 FEET OF LOT 15 IN THE OFFICIAL PLAT OF THE NORTHWEST QUARTER (1/4) OF THE SOUTHEAST QUARTER (1/4) OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

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 an easement for subsurface building encroachment in such vacated City right-of-way along Grand Avenue adjoining the property locally known as 430 Grand Avenue, to EMM Associates, L.P. for the consideration of \$1,250, subject to the closing conditions set forth above.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such property interest is to be considered shall be on April 22, 2013, 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.

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4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached, in accordance with Section 362.3 of the Iowa Code.

5. The proceeds from the sale of this easement 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
Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GRIESS, HENSLEY, MAHAFFEY, MEYER, MOORE, and TOTAL.

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