

Date October 7, 2013

SET HEARING FOR VACATION OF CITY RIGHT-OF-WAY AND CONVEYANCE OF A SUBSURFACE EASEMENT WITHIN SW 2ND STREET AND MARKET STREET ADJOINING 101 SW 2ND STREET TO DSM COMMON, INC. FOR \$3,342.00

WHEREAS, DSM Common, Inc. is the owner of the real property locally known as 101 SW 2nd Street, and has offered to the City of Des Moines the purchase price of \$3,342.00 for the vacation and purchase of an easement for subsurface building encroachment within the subsurface portion of City right-of-way within SW 2nd Street and Market Street adjoining 101 SW 2nd Street, as legally described below, for the purpose of using, repairing, and maintaining the footings and foundations extending from the adjoining parking garage at 101 SW 2nd Street, which price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, such subsurface portion of City-owned SW 2nd Street and Market Street has been determined by the City Engineer and City Traffic Engineer to have no significant impact upon the public use of SW 2nd Street or Market Street, and the City will not be inconvenienced by the vacation thereof and sale of a subsurface easement therein.

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 within SW 2nd Street and Market Street adjoining the property locally known as 101 SW 2nd Street, more specifically described as follows:

A SUBSURFACE PORTION OF SW 2ND STREET, AND A SUBSURFACE PORTION OF MARKET STREET, AS LOCATED IN THE PLAT OF FORT DES MOINES, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL "C" OF THE PLAT OF SURVEY IN BLOCK 36 OF THE PLAT OF FORT DES MOINES, DES MOINES, POLK COUNTY, IOWA, IN ACCORDANCE WITH THE PLAT THEREOF RECORDED IN BOOK 14447, AT PAGE 391-392 OF THE RECORDS OF THE POLK COUNTY RECORDER'S OFFICE; THENCE N74°15'34"E, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF MARKET STREET, 126.63 FEET; THENCE S15°44'26"E, 3.50 FEET; THENCE S74°15'34"W, ALONG A LINE PARALLEL WITH AND 3.50 FEET NORMALLY DISTANT SOUTHEASTERLY FROM SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 130.16 FEET; THENCE N15°19'18"W, ALONG A LINE PARALLEL WITH AND 3.50 FEET NORMALLY DISTANT SOUTHWESTERLY FROM THE EASTERLY RIGHT-OF-WAY LINE OF SW 2ND STREET, A DISTANCE OF 191.77 FEET; THENCE N74°40'42"E, 3.50 FEET, TO A POINT ON SAID EASTERLY RIGHT-OF-WAY LINE; THENCE S15°19'18"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 188.25 FEET, TO THE POINT OF BEGINNING. SAID SUBSURFACE

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EASEMENT CONTAINS 1,114 SQUARE FEET (0.03 ACRE), AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

- 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 to DSM Common, Inc. for the consideration of \$3,342.00.
- 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 October 21, 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.
- 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. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

Moved by Mahaffey to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

RM

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

MOTION CARRIED APPROVED

T. M. Franklin
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.

Diane Rauh City Clerk