

Date November 23, 2015

HOLD HEARING FOR VACATION OF A PORTION OF MARKET STREET RIGHT-OF-WAY ADJOINING 123 SOUTHWEST 3RD STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO CONFLUENCE ON THIRD LLC FOR \$13,043.00

WHEREAS, Confluence on Third LLC is the owner of the real property bounded by SW 2nd Street, SW 3rd Street, Vine Street and Market Street, locally known as 123 Southwest Third Street, which property is being developed into multi-family apartments; and

WHEREAS, Confluence on Third LLC has requested the vacation of a portion of Market Street between Southwest 2nd Street and Southwest 3rd Street ("City Right-of-Way"), hereinafter more fully described, and has requested that the City of Des Moines, Iowa ("City") convey a Permanent Easement for Building Encroachment in the vacated City Right-of-Way to Confluence on Third LLC to allow for building footings, entrance stoops and balconies for a proposed multi-family dwelling; and

WHEREAS, Confluence on Third LLC has offered to the City the purchase price of \$13,043.00 for the vacation and purchase of the Permanent Easement for Building Encroachment in the City Right-of-Way, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

WHEREAS, on October 26, 2015, by Roll Call No. 15-1776, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission approving a request from Confluence on Third LLC for the vacation of 3 feet of the north side of Market Street right-of-way adjoining property in the vicinity of 123 Southwest 3rd Street; and

WHEREAS, on November 9, 2015, by Roll Call No. 15-1860, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such permanent easement be set down for hearing on November 23, 2015, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate said City Right-of-Way and convey the Permanent Easement for Building Encroachment was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said 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 said proposed vacation and conveyance of the Permanent Easement for Building Encroachment as described below 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 a portion of Market Street adjoining 123 Southwest 3rd Street, more specifically described as follows:

THE NORTH 3 FEET OF MARKET STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING ALL OF BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

3. That the sale and conveyance of a Permanent Easement for Building Encroachment within such vacated City right-of-way, as described below, to Confluence on Third LLC for \$13,043.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

THE NORTH 3 FEET OF VACATED MARKET STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING ALL OF BLOCK 29, FORT DES MOINES, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement for Building Encroachment for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating City Right-of-Way and 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 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 Permanent Easement for Building Encroachment, together with a certified copy of this resolution and of the affidavit of publication of 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 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.



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(Council Communication No. 15-620)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	6			

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 Council Mayor