

★ Roll Call Number

17-0313

Agenda Item Number

48

Date February 20, 2017

HOLD HEARING FOR CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR ENCROACHMENT ON VACATED CITY ALLEY LOCATED NORTH OF AND ADJOINING 401 LOCUST STREET TO HOTEL DES MOINES, L.P. FOR \$14,300.00

WHEREAS, on June 4, 1979, by Roll Call 2220, the City Council of the City of Des Moines passed Ordinance No. 9586 permanently vacating the east-west alley lying north of and adjoining Lots 1 and 2, Block D, Commissioner's Addition, an Official Plat, locally known as 401 Locust Street, Des Moines, Iowa (hereinafter "City Property"); and

WHEREAS, Hotel Des Moines, L.P., a Delaware limited partnership, c/o Starwood Capital Group, 591 West Putnam Avenue, Greenwich, CT 06830, owns the real property located south of and adjoining said City Property, and Hotel Des Moines L.P., has offered to the City of Des Moines the purchase price of \$14,300.00 for the purchase of a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Encroachment onto said Property for the limited purpose of the Buyer installing, repairing, maintaining, and using a trash receptacle enclosure and fire escapes within the City Property, which price reflects the fair market value of the easement interests as currently estimated by the City's Real Estate Division; and

WHEREAS, the City will not be inconvenienced by the proposed conveyance of said easement interests.

WHEREAS, on February 6, 2017 by Roll Call No. 17-0185, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyances of the Permanent Easement for Air Space Above City-owned Property and Permanent Easement for Encroachment be set down for hearing on February 20, 2017, at 5:00 p.m., in the City Council Chambers, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa; and

WHEREAS, subsequent to setting the date of hearing and publishing notice of said hearing, the City of Des Moines received clarification of the ownership interests in the hotel and the Buyer of the easements is now Hotel Des Moines, L.P.; and

WHEREAS, due notice of said proposal to convey the Permanent Easement for Air Space Above City-owned Property and Permanent Easement for Encroachment was given 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 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.

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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 conveyance of the Permanent Easement for Air Space Above City-owned Property and Permanent Easement for Encroachment in the vacated east-west alley lying north of and adjoining 401 Locust Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the property interests proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of a Permanent Easement for Air Space Above City-owned Property and a Permanent Easement for Encroachment as legally described and to the grantees and for the consideration identified below, and said conveyances are hereby approved:

Grantee: Hotel Des Moines, L.P.

Consideration: \$14,300.00

LEGAL DESCRIPTION - ENCROACHMENT EASEMENT

THE WEST 25.00 FEET OF THE VACATED ALLEY LYING DIRECTLY ADJACENT TO LOTS 2 & 6, IN BLOCK 'D' OF COMMISSIONER'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 105 AT THE POLK COUNTY RECORDER'S OFFICE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NW CORNER OF SAID LOT 2; THENCE N16°14'58"W, 16.50 FEET TO THE SW CORNER OF SAID LOT 6; THENCE N73°45'02"E, 25.00 FEET ALONG THE SOUTH LINE OF SAID LOT 6 TO A POINT; THENCE S16°14'58"E, 16.50 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE S73°45'02"W, 25.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 412 SQUARE FEET;

LEGAL DESCRIPTION - EAST AIR RIGHTS EASEMENT

AN AIR RIGHTS EASEMENT IN THE VACATED ALLEY LYING DIRECTLY ADJACENT TO LOT 1, IN BLOCK 'D' OF COMMISSIONER'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 105 AT THE POLK COUNTY RECORDER'S OFFICE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NE CORNER OF SAID LOT 1, SAID NE CORNER ALSO BEING ON THE SOUTH VACATED RIGHT-OF-WAY LINE OF



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VACATED ALLEY AS IT IS PRESENTLY ESTABLISHED; THENCE S73°45'02"W, 4.50 FEET ALONG THE NORTH LINE OF SAID LOT 1 AND SAID SOUTH VACATED RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING; THENCE S73°45'02"W, 35.00 FEET ALONG SAID NORTH LINE AND SAID VACATED SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE N16°14'58"W, 5.00 FEET TO A POINT; THENCE N73°45'02"E, 35.00 FEET ALONG A LINE THAT IS 5.00 FEET NORTH OF AND PARALLEL TO SAID NORTH LINE OF LOT 1 TO A POINT; THENCE S16°14'58"E, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 175 SQUARE FEET MORE OR LESS. ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 137.0 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 39.0 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 31.5 FEET, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

LEGAL DESCRIPTION - WEST AIR RIGHTS EASEMENT

AN AIR RIGHTS EASEMENT IN THE VACATED ALLEY LYING DIRECTLY ADJACENT TO LOT 2, IN BLOCK 'D' OF COMMISSIONER'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 105 AT THE POLK COUNTY RECORDER'S OFFICE, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS:

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID LOT 2, SAID NW CORNER ALSO BEING ON THE SOUTH VACATED RIGHT-OF-WAY LINE OF VACATED ALLEY AS IT IS PRESENTLY ESTABLISHED; THENCE N73°45'02"E, 7.00 FEET ALONG THE NORTH LINE OF SAID LOT 2 AND SAID VACATED SOUTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING; THENCE N73°45'02"E, 25.00 FEET ALONG SAID NORTH LINE AND SAID SOUTH VACATED RIGHT-OF-WAY LINE TO A POINT; THENCE N16°14'58"W, 5.00 FEET TO A POINT; THENCE S73°45'02"W, 25.00 FEET ALONG A LINE THAT IS 5.00 FEET NORTH OF AND PARALLEL TO SAID NORTH LINE OF LOT 2 TO A POINT; THENCE S16°14'58"E, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 125 SQUARE FEET MORE OR LESS. ALL BEING LOCATED BELOW A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 147.0 FEET AND ABOVE A PLANE WITH A CITY OF DES MOINES DATUM ELEVATION OF 39.0 FEET WITH A CITY OF DES MOINES DATUM GROUND ELEVATION OF 32.6 FEET, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

- 3. The Mayor is authorized and directed to sign the Offers to Purchase and the Permanent Easement for Air Space Above City-owned Property and Permanent Easement for Encroachment for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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4. 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 Air Space Above City-owned Property and the Permanent Easement for 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.

5. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-owned Property and the Permanent Easement for Encroachment, 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.

6. 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 Air Space Above City-owned Property and the Permanent Easement for Encroachment and copies of the other documents to the grantees.

7. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

(Council Communication No. 17- 100)

Moved by Hensley to adopt.

APPROVED AS TO FORM:
[Signature]
Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED 7 APPROVED
[Signature] 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.
[Signature] City Clerk