



Roll Call Number

18-1707

Agenda Item Number

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Date October 8, 2018

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF ROADWAY EASEMENT FOR SOUTHWEST CONNECTOR RIGHT-OF-WAY LOCATED EAST OF SW 63<sup>RD</sup> STREET AND RELEASE THEREOF FOR \$170,950.00**

**WHEREAS**, on July 14, 2008, by Roll Call No. 08-1177, the City Council of the City of Des Moines, Iowa, voted to approve and accept a Permanent Easement for Roadway Right-of-Way - Southwest Connector from Cornerstone Family Church, in property located east of SW 63<sup>rd</sup> Street and north of McKinley Avenue, as further described below, ("Property"), for the purpose of the City constructing and maintaining public streets and setback, together with all necessary appurtenances thereto, for the Southwest Connector Project, which Permanent Easement for Roadway Right-of-Way - Southwest Connector was recorded in Book 12726, Page 294 in the office of the Polk County Recorder; and

**WHEREAS**, on September 24, by Roll Call No. 18-1613, the "MoveDSM Plan" was approved, which eliminates the existing alignment and the need for right-of-way parcels that have previously been dedicated for the Southwest Connector in favor of a more localized street circulation network; and

**WHEREAS**, Bell Avenue Properties, Inc. is in the process of acquiring the property located in the 4701 Block of Southwest 63<sup>rd</sup> Street which adjoins the Property and is encumbered by said Permanent Easement for Roadway Right-of-Way - Southwest Connector, and has offered to the City of Des Moines, Iowa, the purchase price of \$170,950.00 for the release of said Permanent Easement for Roadway Right-of-Way - Southwest Connector, which reflects the fair market value of said release as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for said Permanent Easement for Roadway Right-of-Way - Southwest Connector proposed to be vacated and released, and the City will not be inconvenienced by the vacation and release of said Permanent Easement for Roadway Right-of-Way - Southwest Connector.

**WHEREAS**, on September 24, 2018, by Roll Call No. 18-1577, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and release of the Permanent Easement for Roadway Right-of-Way - Southwest Connector be set for hearing on October 8, 2018, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

**WHEREAS**, due notice of said proposal to vacate and release the Permanent Easement for Roadway Right-of-Way - Southwest Connector was given to all necessary parties 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 vacation and release, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.



Date October 8, 2018

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 vacation and release of the Permanent Easement for Roadway Right-of-Way for the Southwest Connector, as described herein, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the Permanent Easement for Roadway Right-of-Way - Southwest Connector proposed to be vacated, and the public would not be inconvenienced by reason of the vacation and release of the Permanent Easement for Roadway Right-of-Way - Southwest Connector, legally described as follows, and said vacation is hereby approved:

Easement Area (b), in Airport Industrial Park Plat 1, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, as recorded in Book 12726 pages 294-297 at the Recorder's office of Polk County, Iowa.

3. The proposed release of the Permanent Easement for Roadway Right-of-Way - Southwest Connector, as legally described below and for the consideration identified below, which shall be paid by Bell Avenue Properties, Inc., and said conveyance is hereby approved:

Consideration: \$170,950.00

Legal Description:

Vacated Easement Area (b), in Airport Industrial Park Plat 1, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, as recorded in Book 12726 pages 294-297 at the Recorder's office of Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Release of Permanent Easement for Roadway Right-of-Way - Southwest Connector as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. 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 Release of Permanent Easement for Roadway Right-of-Way - Southwest Connector, 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 Release of Permanent Easement for Roadway Right-of-Way - Southwest Connector, 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.



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7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Release of Permanent Easement for Roadway Right-of-Way – Southwest Connector and a copy of the other documents to the grantee.

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

(Council Communication No. 18-510)

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

[Signature of Lisa A. Wieland]

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
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.

[Signature of J. M. Frankhu] Mayor

[Signature of Diane Rauh] City Clerk