



Roll Call Number

18-1837

Agenda Item Number

21

Date November 5, 2018

SET HEARING FOR VACATION OF PORTIONS OF EAST 4TH STREET, DES MOINES STREET AND EAST 5TH STREET RIGHT-OF-WAY ADJOINING 415 AND 421 DES MOINES STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO 555 E FOURTH PARKING, LLC FOR \$13,830.00

WHEREAS, on May 7, 2018, the City Council of the City of Des Moines received and filed a recommendation from the City Plan and Zoning Commission to approve a request from Nelson Construction Services, LLC, represented by Alexander Grgurich (officer) for vacation of the subsurface rights in the east 2.0 feet of East 4th Street, the south 4.5 feet of Des Moines Street and the west 3.0 feet of East 5th Street right-of-way all adjoining 415 and 421 Des Moines Street, Des Moines, Iowa (hereinafter "Property") to allow for building footing encroachments; and

WHEREAS, 555 E Fourth Parking, LLC, successor in interest to Nelson Development 1, LLC, is the owner the real property located south of Des Moines Street between East 4th Street and East 5th Street, formerly locally known as 415 and 421 Des Moines St, and has offered to the City the purchase price of \$13,830.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment on City-owned Property (hereinafter "Easement") in a portion of the Property, hereinafter more fully described, to allow for construction and maintenance of building footings encroaching into the Property; which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the subsurface rights proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of the Permanent Easement for Subsurface Building Encroachment on City-owned Property within said Property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. The City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating the subsurface rights in the east 2.0 feet of East 4th Street, the south 4.5 feet of Des Moines Street, and the west 3.0 feet of East 5th Street right-of-way adjoining the property located south of Des Moines Street between East 4th Street and East 5th Street, formerly locally known as 415 and 421 Des Moines St, legally described as follows:

A PART OF THE EAST 4TH STREET, EAST 5TH STREET, AND DES MOINES STREET RIGHTS-OF-WAY LYING ADJACENT TO LOT 1, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST OF CORNER OF SAID LOT 1; THENCE SOUTH 15°17'24" EAST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 142.21 FEET; THENCE SOUTH 74°49'57" WEST, 2.00 FEET; THENCE NORTH 15°17'24" WEST, 146.71 FEET; THENCE NORTH 74°47'22" EAST, 344.75 FEET; THENCE SOUTH 15°20'33" EAST, 155.35 FEET; THENCE SOUTH 74°50'22" WEST, 3.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 15°20'33" WEST ALONG SAID EAST LINE, 150.85 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH



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74°47'22" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 339.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,288 S.F.).

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Subsurface Building Encroachment on City-owned Property in such vacated street right-of-way, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: 555 E Fourth Parking, LLC

Consideration: \$13,830.00

Legal Description:

A PART OF THE VACATED EAST 4TH STREET, VACATED EAST 5TH STREET, AND VACATED DES MOINES STREET RIGHTS-OF-WAY LYING ADJACENT TO LOT 1, BLOCK 10, EAST FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST OF CORNER OF SAID LOT 1; THENCE SOUTH 15°17'24" EAST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 142.21 FEET; THENCE SOUTH 74°49'57" WEST, 2.00 FEET; THENCE NORTH 15°17'24" WEST, 146.71 FEET; THENCE NORTH 74°47'22" EAST, 344.75 FEET; THENCE SOUTH 15°20'33" EAST, 155.35 FEET; THENCE SOUTH 74°50'22" WEST, 3.00 FEET TO THE EAST LINE OF SAID LOT 1; THENCE NORTH 15°20'33" WEST ALONG SAID EAST LINE, 150.85 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 74°47'22" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 339.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.05 ACRES (2,288 S.F.).

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such permanent easement for subsurface building encroachment is to be considered shall be on November 19, 2018, 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 all in accordance with §362.3 of the Iowa Code.

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

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Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

RSV

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.

J. M. Franklin Cownie
 Mayor

Diane Rauh
 City Clerk