

★ **Roll Call Number**  
19-1824

**Agenda Item Number**  
21

**Date**.....November 18, 2019.....

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**SET HEARING FOR APPROVAL OF DOCUMENTS FOR CONVEYANCE OF A  
PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY  
TO THE TEMPLE PARTNERS, L.P. FOR \$100.00**

**WHEREAS**, on April 22, 2002, by Roll Call No. 02-1066 the City Council of the City of Des Moines passed Ordinance No. 14,078 permanently vacating the north-south alley right-of-way lying west of and adjoining the Masonic Temple Building at 1011 Locust Street, subject to reservation of easements therein with the right-of entry for servicing same; and

**WHEREAS**, on November 18, 2002, by Roll Call No. 02-2745 the City Council of the City of Des Moines passed Ordinance No. 14,163 permanently vacating the portion of 11<sup>th</sup> Street and any remaining alley rights-of-way and reserved easements for public utilities within the three block area located between Locust Street and Grand Avenue, and between 10<sup>th</sup> and 13<sup>th</sup> Streets, including that alley right-of-way previously vacated by Ordinance No. 14,078 passed April 22, 2002, and Ordinance No. 14,163 passed November 18, 2002, with reservation of easements for utilities in place; and

**WHEREAS**, on December 18, 2006, by Roll Call No. 06-2516 the City Council of the City of Des Moines voted to dedicate as parkland certain City property located between 10<sup>th</sup> Street and 15<sup>th</sup> Street and Grand Avenue and Locust Street, including the City property located between the City of Des Moines Central Library and the Masonic Temple Building at 1011 Locust Street; and

**WHEREAS**, a public plaza was created as part of the redevelopment of the park space between the Central Library and the Masonic Temple, and a shade canopy was installed on the west side of the Masonic Temple Building over the vacated north-south alley right-of-way as part of this plaza; and

**WHEREAS**, no easement was ever granted to the owners of the Masonic Temple Building to allow the shade canopy to encroach over the vacated north-south alley right-of-way; and

**WHEREAS**, The Temple Partners, L.P., an Iowa limited partnership, owner of the Masonic Temple Building at 1011 Locust Street, Des Moines, Iowa, has now offered to the City the purchase price of \$100.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") hereinafter more fully described, to allow for the permanent encroachment of the shade canopy over the vacated alley right-of-way, which price reflects the fair market value of the Easement as determined by the City's Real Estate Division, and which Easement allows the City to terminate the Easement for any reason upon one hundred twenty (120) days notice; and

**WHEREAS**, the City has no known current or anticipated public need for the Easement area and the City will not be inconvenienced by the conveyance of said Permanent Easement for Air Space Above City-Owned 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, proposes to convey a Permanent Easement for Air Space Above City-Owned Property in a 13-foot by 41-foot segment of vacated north-south alley right-of-

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way located west of and adjoining 1011 Locust Street, Des Moines, Iowa, as legally described and to the grantee and for the consideration identified below, subject to reservation of easements therein:

Grantee: The Temple Partners, L. P.

Consideration: \$100.00

Legal Description:

Part of the vacated north-south alley lying West of and adjoining Lots 1 and 2 in Block 3 of Campbell and McMullen's Addition, an Official Plat, now included in and forming a part of the City of Des Moines, Polk County, Iowa, being more particularly described as follows:

Commencing at the Southwest corner of Lot 1 in said Block 3 of Campbell and McMullen's Addition; thence South 74°(degrees) 13'(minutes) 04"(seconds) West, 0.50 feet along the South line of said Lot 1 extended; thence North 15°18'56" West, 18.62 feet along a line that is parallel to and 0.50' westerly of the West line of said Lot 1 to the Point of Beginning; thence South 74°41'04" West, 13.00 feet; thence North 15°18'56" West, 41.00 feet; thence North 74°41'04" East, 13.00 feet to a point 0.50' westerly of the West line of said Lot 1; thence South 15°18'56" East, 41.00 feet along a line that is parallel to and 0.50' westerly of the West line of said Lot 1 to the point of beginning.

Lying between elevations 55.00 feet and 71.50 feet, City of Des Moines Vertical Datum (reference ground level elevation of 41.44 feet, City of Des Moines Vertical Datum). Horizontally containing 533 square feet, more or less.

(VACATED BY ORDINANCE NO. 14,078, PASSED APRIL 22, 2002, and ORDINANCE NO. 14,163 PASSED NOVEMBER 18, 2002)

3. A public hearing shall be held on December 2, 2019, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time the City Council will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
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 Boesen to adopt.

APPROVED AS TO FORM:

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

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED APPROVED

J. M. Frankhu Cowrie Mayor

CERTIFICATE

I, P. KAY CMELIK, 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.

P. Kay Cmelik City Clerk