



Roll Call Number

19-1951

Agenda Item Number

42

Date December 2, 2019

HOLD 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 11th 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 10th and 13th 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 10th Street and 15th 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 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 north-south 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; and



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WHEREAS, on November 18, 2019, by Roll Call No. 19-1824, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the Easement be set down for hearing on December 2, 2019, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey the Easement 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 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:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance, as described below, are hereby overruled and the hearing is closed.
2. There is no public need or benefit for the Easement area 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 in a 13-foot by 41-foot segment of vacated north-south alley right-of-way located west of and adjoining 1011 Locust Street, Des Moines, Iowa, as legally described, to the grantee, and for the consideration identified below, and said conveyance be and is hereby approved, subject to a 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.



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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. The Mayor is authorized and directed to sign the Permanent Easement for Air Space Above City-Owned Property for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
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, 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, 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 the 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 copies of the other documents to the grantee.
4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

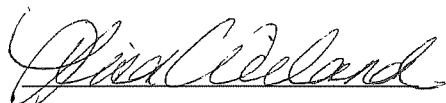
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Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

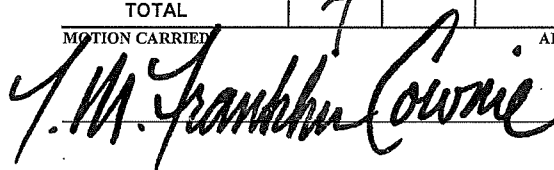


Lisa A. Wieland, Assistant City Attorney

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

MOTION CARRIED

APPROVED

 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.

 City Clerk