

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF LOCUST STREET AND 7<sup>TH</sup> STREET RIGHT-OF-WAY ADJOINING 700 LOCUST STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO LAWMARK, L.P. FOR \$1,200.00**

**WHEREAS**, February 21, 2022, by Roll Call No. 22-0234, the City Council of the City of Des Moines, Iowa voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request from Lawmark, L.P., owner of property at 700 Locust Street, to vacate portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, Des Moines, Iowa, (hereinafter "Property") subject to the reservation of any easements for all existing utilities until such time that they are abandoned or relocated; and

**WHEREAS**, Lawmark, L.P., has offered to the City of Des Moines ("City") the purchase price of \$1,200.00 for the purchase of a Permanent Easement for Building Encroachment over portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, to allow for the maintenance, repair and replacement of an existing building encroachment into the vacated 7<sup>th</sup> Street and Locust Street right-of-way, which price reflects the fair market value of the easement as determined by the City's Real Estate Division; and

**WHEREAS**, there is no known current or future public need for the street right-of-way proposed to be vacated and the City will not be inconvenienced by the vacation of said Property and conveyance of a Permanent Easement for Building Encroachment therein; and

**WHEREAS**, on August 22, 2022, by Roll Call No. 22-1325, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Building Encroachment be set for hearing on September 12, 2022, 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 the street right-of-way and convey a Permanent Easement for Building Encroachment in such vacated right-of-way was given to all interested 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 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of street right-of-way as described herein, are hereby overruled and the hearing is closed.



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2. There is no public need or benefit for the street right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of portions of Locust Street and 7th Street right-of-way adjoining 700 Locust Street, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

Part of 7th Street right-of-way lying East of and adjoining Block 1 of the Original Town of Fort Des Moines, 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 Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 15°(degrees) 23'(minutes) 54"(seconds) East, 17.62 feet along the East line of said Block 1 to the Point of Beginning; thence South 15°33'37" East, 88.49 feet; thence South 74°36'06" West, 0.25 feet to the East line of said Block 1; thence North 15°23'54" West, 88.49 feet along the East line of said Block 1 to the point of beginning; containing 11 square feet.

And,

Part of Locust Street right-of-way lying North of and adjoining Block 1 of the Original Town of Fort Des Moines, 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 Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 74°(degrees) 12'(minutes) 51"(seconds) West, 9.22 feet along the North line of said Block 1 to the Point of Beginning; thence continuing South 74°12'51" West, 256.09 feet along the North line of said Block 1; thence North 74°10'10" East, 256.09 feet; thence South 15°47'09" East, 0.20 feet to the point of beginning; containing 26 square feet.

3. The proposed conveyance of a Permanent Easement for Building Encroachment, as legally described below, to Lawmark, L.P. for \$1,200.00 is hereby approved:

Part of vacated 7th Street right-of-way lying East of and adjoining Block 1 of the Original Town of Fort Des Moines, 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 Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 15°(degrees) 23'(minutes) 54"(seconds) East, 17.62 feet along the East line of said Block 1 to the Point of Beginning; thence South 15°33'37" East, 88.49 feet; thence South 74°36'06" West, 0.25 feet to the East line of said Block 1; thence North 15°23'54" West, 88.49 feet along the East line of said Block 1 to the point of beginning; containing 11 square feet.

And,



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Part of vacated Locust Street right-of-way lying North of and adjoining Block 1 of the Original Town of Fort Des Moines, 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 Northeast corner of Lot 8 in said Block 1 of the Original Town of Fort Des Moines; thence South 74°(degrees) 12'(minutes) 51"(seconds) West, 9.22 feet along the North line of said Block 1 to the Point of Beginning; thence continuing South 74°12'51" West, 256.09 feet along the North line of said Block 1; thence North 74°10'10" East, 256.09 feet; thence South 15°47'09" East, 0.20 feet to the point of beginning; containing 26 square feet.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Building Encroachment for the conveyance 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 Permanent Easement for Building 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Building 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.
7. 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 Building Encroachment 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.



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Moved by Gatto to adopt. Second by Boesen.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno  
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

J. M. Franklin Cownie  
MAYOR

**CERTIFICATE**

I, LAURA BAUMGARTNER, 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.

Laura Baumgartner  
Laura Baumgartner, City Clerk