

**SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SURFACE RIGHTS WITHIN A PORTION OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY ADJOINING 3612 AND 3614 6<sup>TH</sup> AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT- DOOR SWING TO 36 ON 6<sup>TH</sup>, L.L.C. FOR \$34.00**

**WHEREAS**, 36 on 6<sup>th</sup>, L.L.C., the owner of 3612 and 3614 6<sup>th</sup> Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate surface rights within a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> Avenue, which request was not presented to the City’s Plan and Zoning Commission for review and has instead been determined by the City Traffic Engineer to have no significant impact upon the public use of the right-of-way, in accordance with Municipal Code 102-286(b); and

**WHEREAS**, 36 on 6<sup>th</sup>, L.L.C. has offered to the City the purchase price of \$34.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing (“Easement”) over, through and across a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> Avenue (hereinafter “Easement Area”) to allow for construction, repair, operation, and maintenance of a building door entrance stoop and door swing area, into and upon said 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 the conveyance of the Easement in such vacated right-of-way.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating surface rights within a portion of 6<sup>th</sup> Avenue right-of-way adjoining 3612 and 3614 6<sup>th</sup> Avenue, legally described as follows:

PART OF 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 OF OAK PARK, 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 SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05'(MINUTES) 05"(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 107.71 FEET ALONG THE EAST LINE OF SAID LOT 1; THENCE NORTH 89°54'55" EAST, 0.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 3.25 FEET; THENCE NORTH 00°05'05" WEST, 4.50 FEET; THENCE SOUTH 89°54'55" WEST, 3.25 FEET; THENCE SOUTH 00°05'05" EAST, 4.50 FEET TO THE POINT OF BEGINNING. CONTAINING 15 SQUARE FEET.



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2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment – Door Swing in such vacated right-of-way, as legally described below, to 36 on 6<sup>th</sup>, L.L.C. for \$34.00, subject to any and all easements, restrictions and covenants of record:

PART OF VACATED 6TH AVENUE RIGHT-OF-WAY LYING EAST OF AND ADJOINING LOT 1 IN BLOCK 2 OF OAK PARK, 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 SAID LOT 1 IN BLOCK 2 OF OAK PARK; THENCE SOUTH 00°(DEGREES) 05'(MINUTES) 05"(SECONDS) EAST (BEARING ASSUMED FOR THE PURPOSE OF THIS DESCRIPTION ONLY), 107.71 FEET ALONG THE EAST LINE OF SAID LOT 1; THENCE NORTH 89°54'55" EAST, 0.41 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°54'55" EAST, 3.25 FEET; THENCE NORTH 00°05'05" WEST, 4.50 FEET; THENCE SOUTH 89°54'55" WEST, 3.25 FEET; THENCE SOUTH 00°05'05" EAST, 4.50 FEET TO THE POINT OF BEGINNING. CONTAINING 15 SQUARE FEET.

3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such right-of-way is to be considered shall be on February 10, 2025, 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. At that time the City Council will consider the above-described proposal, and any other(s) submitted prior to or during the public hearing. Persons interested in the proposal will be given the opportunity to express their views at that 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 Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Chas M. Cahill  
Chas M. Cahill, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN	✓			
SIMONSON	✓			
VOSS	✓			
COLEMAN	✓			
WESTERGAARD	✓			
MANDELBAUM	✓			
GATTO	✓			
TOTAL	7			

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.

MOTION CARRIED APPROVED  
Connie Boesen Mayor

Laura Baumgartner  
Laura Baumgartner, City Clerk