

Date December 8, 2025

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HOLD HEARING FOR VACATION OF SURFACE RIGHTS WITHIN A PORTION OF SW 8TH STREET RIGHT-OF-WAY ADJOINING 4601 SW 9TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO C & E RENTALS LLC FOR \$450

WHEREAS, C & E Rentals LLC, the owner of 4601 SW 9th Street, Des Moines, Iowa has requested that the City of Des Moines, Iowa (“City”) vacate surface rights within a portion of SW 8th Street right-of-way adjoining 4601 SW 9th Street, 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, C & E Rentals LLC has offered to the City the purchase price of \$450.00 for the purchase of a Permanent Easement for Surface Building Encroachment on City-Owned Property (“Easement”) over, through and across a portion of SW 8th Street right-of-way adjoining 4601 SW 9th Street (hereinafter “Easement Area”) for the purpose of operating, maintaining and repairing building encroachment for the building currently located on 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 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; and

WHEREAS, on November 17, 2025, by Roll Call No. 25-1533, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation of the street right-of-way and the conveyance of a Permanent Easement for Surface Building Encroachment on City-Owned Property be set for hearing on December 8, 2025, 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 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 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 surface rights within a portion of SW 8th Street right-of-way adjoining 4601 SW 9th Street, 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 right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of surface rights within a portion of SW 8th Street right-of-way adjoining 4601 SW 9th Street, Des Moines, Iowa, legally described as follows, and said vacation is hereby approved:

A PART OF LOT D IN WHISPERING PINES, AN OFFICIAL PLAT, NOW INCLUDING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA, IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY CORNER OF THE NORTHWEST CORNER OF SAID LOT D; THENCE SOUTH 89°43'09" EAST, A DISTANCE OF 24.97 FEET ALONG THE NORTH LINE OF SAID LOT D; THENCE SOUTH 00°12'45" WEST, A DISTANCE OF 24.97 FEET; THENCE ALONG A CURVE WITH AN ARC LENGTH OF 39.24 FEET, A RADIUS OF 25.00 FEET, A DELTA ANGLE OF 89°55'54", A CHORD LENGTH OF 35.33 FEET, A CHORD DIRECTION OF NORTH 44°45'12" WEST, AND A TANGENT OF 24.97 FEET TO THE NORTH LINE OF SAID LOT D AND TO THE POINT OF BEGINNING.

CONTAINING 134 SQUARE FEET, MORE OR LESS.

3. The proposed conveyance of the Permanent Easement for Surface Building Encroachment on City-Owned Property in such vacated street right-of-way, as legally described below, to C & E Rentals LLC for \$450.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A PART OF LOT D IN WHISPERING PINES, AN OFFICIAL PLAT, NOW INCLUDING IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY IOWA, IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY CORNER OF THE NORTHWEST CORNER OF SAID LOT D; THENCE SOUTH 89°43'09" EAST, A DISTANCE OF 24.97 FEET ALONG THE NORTH LINE OF SAID LOT D; THENCE SOUTH 00°12'45" WEST, A DISTANCE OF 24.97 FEET; THENCE ALONG A CURVE WITH AN ARC LENGTH OF 39.24 FEET, A RADIUS OF 25.00 FEET, A DELTA ANGLE OF 89°55'54", A CHORD LENGTH OF 35.33 FEET, A CHORD DIRECTION OF NORTH 44°45'12" WEST, AND A TANGENT OF 24.97 FEET TO THE NORTH LINE OF SAID LOT D AND TO THE POINT OF BEGINNING.

CONTAINING 134 SQUARE FEET, MORE OR LESS.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Permanent Easement for Surface Building Encroachment on City-Owned Property, as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Manager is authorized to sign any minor and non-substantial amendments to the purchase agreement and is further authorized to grant any temporary rights of entry for construction-related activities prior to closing.

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6. 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 Surface Building Encroachment on 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.

7. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Surface Building Encroachment on 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 these documents to be recorded.

8. 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 Surface Building Encroachment on City-Owned Property and a copy of the other documents to the grantee.

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

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Gatto

to adopt. Second by

Mandelbaum

APPROVED AS TO FORM:

/s/ Grant Hyland

Grant Hyland, Assistant City Attorney

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

MOTION CARRIED

APPROVED

Connie Breen

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