

Date February 10, 2025

**HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SURFACE RIGHTS WITHIN PORTIONS OF INDIANOLA AVENUE AND E. HILLSIDE AVENUE RIGHT-OF-WAY ADJOINING 1961 INDIANOLA AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT - DOOR SWING TO OPTIMAE LIFESERVICES, INC. FOR \$300.00**

**WHEREAS**, Optimae LifeServices, Inc., the owner of 1961 Indianola Avenue, has requested that the City of Des Moines, Iowa (“City”) vacate surface rights within portions of Indianola Avenue and E. Hillside Avenue right-of-way adjoining 1961 Indianola 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**, Optimae LifeServices, Inc., has offered to the City the purchase price of \$300.00 for the purchase of a Permanent Easement for Building Encroachment – Door Swing (“Easement”) over, through and across portions of Indianola Avenue and E. Hillside Avenue right-of-way adjoining 1961 Indianola Avenue (hereinafter “Easement Area”) to allow for construction, repair, operation and maintenance of building door entrance stoops and door swing areas, 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; and

**WHEREAS**, on January 27, 2025, by Roll Call No. 25-0115, 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 Building Encroachment – Door Swing be set for hearing on February 10, 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 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 air, subsurface, and surface rights in portions of Indianola Avenue and E.

Date February 10, 2025

ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 5.00 FEET, SAID CURVE HAVING A CHORD BEARING OF S08°50'44"E AND A CHORD LENGTH OF 5.00 FEET; THENCE S81°09'16"W, A DISTANCE OF 5.00 FEET; THENCE N08°50'44"W, A DISTANCE OF 5.00 FEET; THENCE N81°09'16"E, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

VACATION AREA "D":

A 5.00 FOOT WIDE EASEMENT OVER AND ACROSS A PORTION OF THE INDIANOLA AVENUE RIGHT OF WAY WEST OF AND ADJACENT TO LOT 20, OFFICIAL PLAT OF THE WEST HALF OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES ,POLK COUNTY, IOWA, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF E. HILLSIDE AVENUE WITH THE EAST RIGHT OF WAY LINE OF INDIANOLA AVENUE; THENCE SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 68.37 FEET TO THE POINT OF BEGINNING, SAID CURVE HAVING A CHORD BEARING OF S08°31'08"E AND A CHORD LENGTH OF 68.35 FEET; THENCE CONTINUING SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 5.00 FEET, SAID CURVE HAVING A CHORD BEARING OF S05°52'18"E AND A CHORD LENGTH OF 5.00 FEET; THENCE S84°07'42"W, A DISTANCE OF 5.00 FEET; THENCE N05°52'18"W, A DISTANCE OF 5.00 FEET; THENCE N84°07'42"E, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

- 3. The proposed conveyance of the Permanent Easement for Building Encroachment – Door Swing in such vacated street right-of-way, as legally described below, to Optimae LifeServices, Inc. for \$300.00, subject to any and all easements, restrictions and covenants of record is hereby approved:

EASEMENT "A":

A 5.00 FOOT WIDE EASEMENT OVER AND ACROSS A PORTION OF VACATED E. HILLSIDE AVENUE RIGHT OF WAY NORTH OF AND ADJACENT TO LOT 20, OFFICIAL PLAT OF THE WEST HALF OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES ,POLK COUNTY, IOWA, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF E. HILLSIDE AVENUE WITH THE EAST RIGHT OF WAY LINE OF INDIANOLA AVENUE; THENCE S89°38'36"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 79.45 FEET TO THE POINT OF BEGINNING; THENCE N00°21'24"E, A DISTANCE OF 5.00 FEET; THENCE S89°38'36"E, A DISTANCE OF 5.00 FEET; THENCE S00°21'24"W, A DISTANCE OF 5.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID E. HILLSIDE AVENUE; THENCE N89°38'36"W ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

EASEMENT "B":

A 5.00 FOOT WIDE EASEMENT OVER AND ACROSS A PORTION OF VACATED E. HILLSIDE AVENUE RIGHT OF WAY NORTH OF AND ADJACENT TO LOT 20, OFFICIAL PLAT OF THE WEST HALF OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES ,POLK COUNTY, IOWA, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF E. HILLSIDE AVENUE WITH THE

EAST RIGHT OF WAY LINE OF INDIANOLA AVENUE; THENCE S89°38'36"E ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 121.45 FEET TO THE POINT OF BEGINNING; THENCE N00°21'24"E, A DISTANCE OF 5.00 FEET; THENCE S89°38'36"E, A DISTANCE OF 5.00 FEET; THENCE S00°21'24"W, A DISTANCE OF 5.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF SAID E. HILLSIDE AVENUE; THENCE N89°38'36"W ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

EASEMENT "C":

A 5.00 FOOT WIDE EASEMENT OVER AND ACROSS A PORTION OF VACATED INDIANOLA AVENUE RIGHT OF WAY WEST OF AND ADJACENT TO LOT 20, OFFICIAL PLAT OF THE WEST HALF OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES ,POLK COUNTY, IOWA, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF E. HILLSIDE AVENUE WITH THE EAST RIGHT OF WAY LINE OF INDIANOLA AVENUE; THENCE SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 27.16 FEET TO THE POINT OF BEGINNING, SAID CURVE HAVING A CHORD BEARING OF S10°00'22"E AND A CHORD LENGTH OF 27.16 FEET; THENCE CONTINUING SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 5.00 FEET, SAID CURVE HAVING A CHORD BEARING OF S08°50'44"E AND A CHORD LENGTH OF 5.00 FEET; THENCE S81°09'16"W, A DISTANCE OF 5.00 FEET; THENCE N08°50'44"W, A DISTANCE OF 5.00 FEET; THENCE N81°09'16"E, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

EASEMENT "D":

A 5.00 FOOT WIDE EASEMENT OVER AND ACROSS A PORTION OF VACATED INDIANOLA AVENUE RIGHT OF WAY WEST OF AND ADJACENT TO LOT 20, OFFICIAL PLAT OF THE WEST HALF OF SECTION 10, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., DES MOINES ,POLK COUNTY, IOWA, DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF E. HILLSIDE AVENUE WITH THE EAST RIGHT OF WAY LINE OF INDIANOLA AVENUE; THENCE SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 68.37 FEET TO THE POINT OF BEGINNING, SAID CURVE HAVING A CHORD BEARING OF S08°31'08"E AND A CHORD LENGTH OF 68.35 FEET; THENCE CONTINUING SOUTHEASTERLY ALONG SAID EAST RIGHT OF WAY LINE AND ALONG A 793.94 FOOT RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 5.00 FEET, SAID CURVE HAVING A CHORD BEARING OF S05°52'18"E AND A CHORD LENGTH OF 5.00 FEET; THENCE S84°07'42"W, A DISTANCE OF 5.00 FEET; THENCE N05°52'18"W, A DISTANCE OF 5.00 FEET; THENCE N84°07'42"E, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINING 25.0 SQUARE FEET.

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

25-0207

39

**Date** February 10, 2025

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.
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 Building Encroachment – Door Swing, 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 Building Encroachment – Door Swing, 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 Building Encroachment – Door Swing 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: Org – EG064090.

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