

25-0352

20

Date March 10, 2025

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF AIR, SURFACE, AND SUBSURFACE RIGHTS WITHIN PORTIONS OF EAST 5TH STREET RIGHT-OF-WAY ADJOINING 106 EAST 6TH STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY, A PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY AND A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO DES MOINES PREP FACILITIES LLC FOR \$21,596.00

WHEREAS, Des Moines Prep Facilities LLC, the owner of 106 East 6th Street, Des Moines, Iowa has requested that the City of Des Moines, Iowa (“City”) vacate air, surface, and subsurface rights in portions of East 5th Street right-of-way adjoining 106 East 6th 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, Des Moines Prep Facilities LLC has offered to the City the purchase price of \$21,596.00 for the purchase of a Permanent Easement for Air Space above City-Owned Property, a Permanent Easement for Surface Building Encroachment on City-Owned Property, and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property (“Easements”) over, through and across portions of East 5th Street right-of-way adjoining 106 East 6th Street (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing a canopy, door stoops, and footing encroachments for the building on the property, which price reflects the fair market value of the Easements 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 Easements 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 air, surface and subsurface rights in portions of East 5th Street right-of-way adjoining 106 East 6th Street, legally described as follows:

AIR RIGHTS

A 5.75-FOOT-WIDE PORTION OF THE EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS:

★ Roll Call Number

25-0352

Agenda Item Number

20

Date March 10, 2025

Page 2

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTH 154.00 FEET OF SAID LOT 14; THENCE S15°07'37"E ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 26.00 FEET; THENCE S75°03'02"W, A DISTANCE OF 5.75 FEET; THENCE N15°07'37"W, A DISTANCE OF 26.00 FEET; THENCE N75°03'02"E, A DISTANCE OF 5.75 FEET TO THE POINT OF BEGINNING. EASEMENT TO BE BETWEEN ELEVATION 34.40 FEET AND 50.40 FEET. (CITY OF DES MOINES VERTICAL DATUM) CONTAINS 1,495 SQUARE FEET.

SURFACE RIGHTS

A 4.50 FOOT WIDE PORTION OF THE EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 154.00 FEET OF SAID LOT 14; THENCE S15°07'37"E ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 5.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S15°07'37"E ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 13.43 FEET; THENCE S74°52'23"W, A DISTANCE OF 4.50 FEET; THENCE N15°07'37"W, A DISTANCE OF 13.43 FEET; THENCE N74°52'23"E, A DISTANCE OF 4.50 FEET TO THE POINT OF BEGINNING. CONTAINS 60 SQUARE FEET.

AND

A 4.50 FOOT WIDE PORTION OF THE EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH 154.00 FEET OF SAID LOT 14; THENCE S15°07'37"E ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 47.71 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S15°07'37"E ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 19.16 FEET; THENCE S74°52'23"W, A DISTANCE OF 4.50 FEET; THENCE N15°07'37"W, A DISTANCE OF 19.16 FEET; THENCE N74°52'23"E, A DISTANCE OF 4.50 FEET TO THE POINT OF BEGINNING. CONTAINS 86 SQUARE FEET.

AND

A 4.50 FOOT WIDE PORTION OF THE EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF

★ Roll Call Number

35-0352

Agenda Item Number

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Date March 10, 2025

Page 3

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SUBSURFACE RIGHTS

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AND

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Roll Call Number

25-0352

Agenda Item Number

20

Date March 10, 2025

Page 4

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- 2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Air Space above City-Owned Property, a Permanent Easement for Surface Building Encroachment on City-Owned Property, and a Permanent Easement for Subsurface Building Encroachment on City-Owned Property in such vacated right-of-way, as legally described below, to Des Moines Prep Facilities LLC for \$21,596.00, subject to any and all easements, restrictions and covenants of record:

PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY

A 5.75-FOOT-WIDE PORTION OF THE VACATED EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS:

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PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY

A 4.50 FOOT WIDE PORTION OF THE VACATED EAST 5TH STREET RIGHT OF WAY WEST OF AND ADJACENT TO THE SOUTH 154.00 FEET OF LOT 14 IN BLOCK 15, TOWN OF DE MOINE, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, ALL MORE PARTICULARLY DESCRIBED AS:

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PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY



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Agenda Item Number

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★ Roll Call Number

25-0352

Agenda Item Number

20

Date March 10, 2025

Page 7

ALONG THE WEST LINE OF SAID LOT 14, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING. CONTAINS 25 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 March 24, 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.

Moved by Gatto to adopt. Second by Voss

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			

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.

Connie Boesen Mayor

Laura Baumgartner
Laura Baumgartner, City Clerk