

25-1320

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Date September 29, 2025

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HOLD HEARING FOR VACATION OF SURFACE RIGHTS WITHIN A PORTION OF DEPOT STREET RIGHT-OF-WAY ADJOINING 108 3RD STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR SURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO JDS REAL ESTATE INVESTMENTS, L.L.C. FOR \$33,400

WHEREAS, JDS Real Estate Investments, L.L.C., an Iowa limited liability company, the owner of 108 3rd Street, Des Moines, Iowa, has requested that the City of Des Moines, Iowa (“City”) vacate surface rights within a portion of Depot Street right-of-way adjoining 108 3rd 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, JDS Real Estate Investments, L.L.C. has offered to the City the purchase price of \$33,400.00 for the purchase of a Permanent Easement for Surface Building Encroachment on City-Owned Property (“Easement”) over, through and across a portion of Depot Street right-of-way adjoining 108 3rd Street, Des Moines, Iowa (hereinafter “Easement Area”) for the purpose of constructing, operating, maintaining and repairing a dumpster area and dock encroachments, 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 September 8, 2025, by Roll Call No. 25-1208, 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 September 29, 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 surface rights within a portion of Depot Street right-of-way adjoining 108 3rd Street, Des Moines, Iowa, as described herein, are hereby overruled and the hearing is closed.

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 Depot Street right-of-way adjoining 108 3rd Street. legally described as follows, and said vacation is hereby approved:

A PART OF THE 19.00-FOOT-WIDE DEPOT STREET RIGHT-OF-WAY LYING SOUTH OF LOTS 5 & 8, BLOCK 25, FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8; THENCE NORTH 74°29'35" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 8, A DISTANCE OF 100.63 FEET; THENCE SOUTH 15°30'25" EAST, 13.00 FEET; THENCE SOUTH 74°29'35" WEST, 24.00 FEET; THENCE NORTH 15°30'25" WEST, 4.50 FEET; THENCE SOUTH 74°29'35" WEST, 70.00 FEET; THENCE NORTH 15°30'25" WEST, 7.50 FEET; THENCE SOUTH 74°29'35" WEST, 46.84 FEET; THENCE NORTH 15°30'25" WEST, 1.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 5; THENCE NORTH 74°29'35" EAST ALONG SAID SOUTHERLY LINE AND THE NORTHERLY RIGHT-OF-WAY LINE OF SAID DEPOT STREET, 40.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (954 SQUARE FEET).

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 JDS Real Estate Investments, L.L.C. for \$33,400.00, subject to any and all easements, restrictions and covenants of record, is hereby approved:

A PART OF THE 19.00-FOOT-WIDE VACATED DEPOT STREET RIGHT-OF-WAY LYING SOUTH OF LOTS 5 & 8, BLOCK 25, FORT DES MOINES, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 8; THENCE NORTH 74°29'35" EAST ALONG THE SOUTHERLY LINE OF SAID LOT 8, A DISTANCE OF 100.63 FEET; THENCE SOUTH 15°30'25" EAST, 13.00 FEET; THENCE SOUTH 74°29'35" WEST, 24.00 FEET; THENCE NORTH 15°30'25" WEST, 4.50 FEET; THENCE SOUTH 74°29'35" WEST, 70.00 FEET; THENCE NORTH 15°30'25" WEST, 7.50 FEET; THENCE SOUTH 74°29'35" WEST, 46.84 FEET; THENCE NORTH 15°30'25" WEST, 1.00 FEET TO THE SOUTHERLY LINE OF SAID LOT 5; THENCE NORTH 74°29'35" EAST ALONG SAID SOUTHERLY LINE AND THE NORTHERLY RIGHT-OF-WAY LINE OF SAID DEPOT STREET, 40.21 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (954 SQUARE FEET).

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.
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: Org – EG064090.

Moved by Mandelbaum to adopt. Second by Simonson

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 Bauer Mayor

Laura Baumgartner
Laura Baumgartner, City Clerk