

Date September 10, 2018

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF A PORTION OF WEST MARTIN LUTHER KING, JR. PARKWAY RIGHT-OF-WAY ADJOINING LOT 1, GRAY'S STATION PLAT 1, AND CONVEYANCE OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT AND A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY TO HRC NFS I, LLC FOR \$7,500.00

WHEREAS, on August 6, 2018, by Roll Call No. 18-1329, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from HRC NFS I, LLC to vacate the air rights in a portion of West Martin Luther King, Jr. Parkway adjoining Lot 1, Gray's Station Plat 1, Des Moines, Iowa (hereinafter "City Right-of-Way"), further described below, to allow for the permanent encroachment of balcony and building overhang elements into the City Right-of-Way; and

WHEREAS, HRC NFS I, LLC subsequently requested the vacation of a portion of the City Right-of-Way to allow for the encroachment of door stoops and steps, door swings, bike racks, and building footings and foundations into the vacated right-of-way, which request has 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, HRC NFS I, LLC, owner of the adjoining property, has offered to the City the purchase price of \$7,500.00 for the purchase of a Permanent Easement for Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property in said City Right-of-Way, hereinafter more fully described, which represents \$4,364.00 for the Permanent Easement for Air Space Above City-owned Property, and \$3,136.00 for the Permanent Easement for Building Encroachment, to allow for encroachment into the City Right-of-Way of balcony and building overhang elements, door stoops and steps, door swings, bike racks, and building footings and foundations, which price reflects the fair market value of the Permanent Easement for Building Encroachment and Permanent Easement for Air Space Above City-Owned Property as determined by the City's Real Estate Division; and

WHEREAS, 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 conveyance of the Permanent Easement for Building Encroachment and Permanent Easement for Air Space Above City-Owned Property within said City Right-of-Way.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of West Martin Luther King, Jr. Parkway adjoining Lot 1, Gray's Station Plat 1, Des Moines, Iowa, more specifically described as follows, subject to the reservation of any

Date September 10, 2018

necessary easements for all existing utilities in place until such time that they are abandoned or are relocated:

A PART OF THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING, NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 84°40'04" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 193.85 FEET; THENCE SOUTH 86°10'40" WEST CONTINUING ALONG THE SAID NORTH LINE, 100.23 FEET TO A CORNER OF SAID LOT 1; THENCE NORTH 03°49'20" WEST, 5.00 FEET; THENCE NORTH 86°10'40" EAST, 33.35 FEET; THENCE NORTH 02°05'55" WEST, 12.01 FEET; THENCE NORTH 86°10'40" EAST, 142.18 FEET; THENCE NORTH 84°40'04" EAST, 53.94 FEET; THENCE SOUTH 04°39'09" EAST, 10.00 FEET; THENCE NORTH 84°40'04" EAST, 63.94 FEET; THENCE SOUTH 05°19'56" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.08 ACRES (3,643 SQUARE FEET).

AND

A PART OF THE AIR RIGHTS IN THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 84°40'04" WEST ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 28.97 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 84°40'04" WEST ALONG SAID NORTHERLY LINE, 164.88 FEET; THENCE SOUTH 86°10'40" WEST CONTINUING ALONG SAID NORTHERLY LINE, 100.23 FEET; THENCE SOUTH 00°21'12" EAST CONTINUING ALONG SAID NORTHERLY LINE, 8.59 FEET; THENCE NORTH 89°04'27" WEST CONTINUING ALONG SAID NORTHERLY LINE, 4.11 FEET; THENCE NORTH 05°19'56" WEST, 11.14 FEET; THENCE NORTH 84°40'04" EAST, 120.17 FEET; THENCE SOUTH 05°19'56" EAST, 5.67 FEET TO SAID NORTHERLY LINE OF LOT 1; THENCE NORTH 82°14'52" EAST, 122.14 FEET; THENCE SOUTH 84°46'59" EAST, 28.17 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.02 ACRES (959 SQUARE FEET).

APPROXIMATE GROUND ELEVATION IS 29.00 FEET WITH THE BOTTOM OF BALCONY ELEVATION BEING APPROXIMATELY 46.00 FEET AND THE TOP OF BALCONY ELEVATION BEING APPROXIMATELY 95.00 FEET. ELEVATIONS ARE CITY OF DES MOINES VERTICAL DATUM.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described City Right-of-Way, the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Building Encroachment and a Permanent Easement for Air Space Above City-Owned Property therein, as legally described as follows, to HRC NFS I, LLC, for \$7,500.00:

Building Encroachment Easement

Date September 10, 2018

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Air Space Easement

A PART OF THE VACATED AIR RIGHTS IN THE RIGHT OF WAY OF WEST MARTIN LUTHER KING JR. PARKWAY LYING NORTH OF LOT 1, GRAY'S STATION PLAT 1, AN OFFICIAL PLAT IN THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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3. That the meeting of the City Council at which said vacation and the conveyance is to be considered shall be on September 24, 2018, 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.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.

★ **Roll Call Number**

Agenda Item Number

19

Page 4

Date September 10, 2018

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

Moved by _____ to adopt.

APPROVED AS TO FORM:


 Lisa A. Wieland, Assistant City Attorney

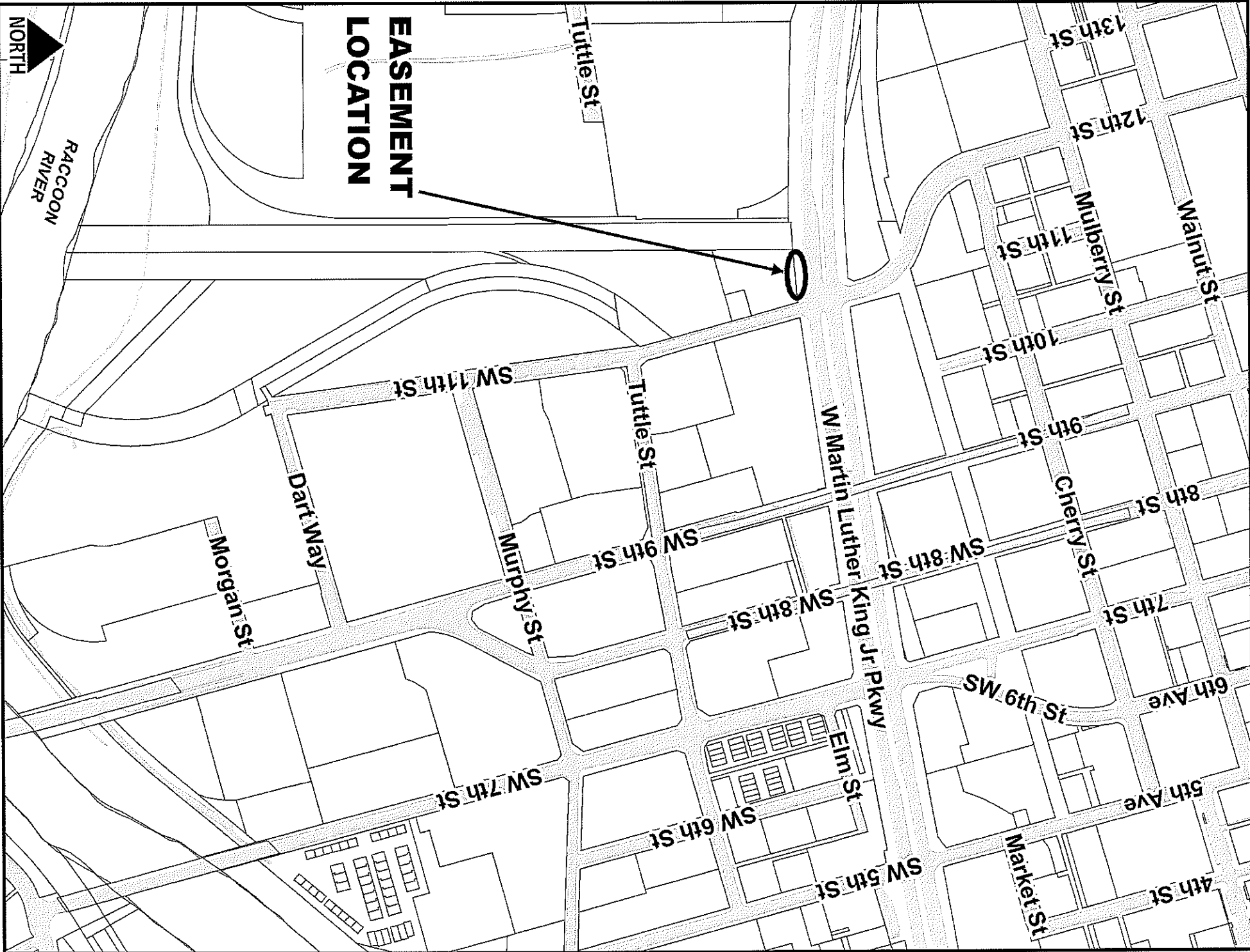
COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, DIANE RAUH, 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.

City Clerk



**EASEMENT
LOCATION**



RACCOON
RIVER