

Date November 18, 2013

**SET HEARING FOR VACATION OF 6<sup>TH</sup> AVENUE AND GRAND AVENUE RIGHT-OF-WAY AND OF AIR SPACE OVER GRAND AVENUE AND 6<sup>TH</sup> AVENUE RIGHT-OF-WAY ADJOINING 505 6<sup>TH</sup> AVENUE, AND FOR CONVEYANCE OF EASEMENTS TO THE YOUNG MEN’S CHRISTIAN ASSOCIATION OF GREATER DES MOINES (YMCA) FOR \$1,000**

**WHEREAS**, on November 18, 2013, by Roll Call No. 13-1792, the City Council received a recommendation from the City Plan and Zoning Commission that air space over Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, and a portion of Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue (herein collectively “City Right-of-Way”), be vacated to allow for the construction of a structural support column and the development of an Olympic swimming pool arena building, as part of the improvements to convert the former Polk County Convention Complex into the Downtown YMCA recreational facility; and

**WHEREAS**, Young Men’s Christian Association of Greater Des Moines (“YMCA”) is the owner of the real property locally known as 505 6<sup>th</sup> Avenue, which property abuts the City Right-of-Way, and has offered to the City of Des Moines the purchase price of \$1,000 for the vacation of the City Right-of-Way and purchase of an encroachment easement interest in the Grand Avenue and 6<sup>th</sup> Avenue rights-of-way and an air space easement interest in portions of Grand Avenue and 6<sup>th</sup> Avenue for the purposes described above, which purchase price reflects the fair market value of the easements as currently estimated by the City’s Real Estate Division; and

**WHEREAS**, the vacation and conveyance is proposed to be approved subject to the requirements of the City Plan and Zoning Commission recommendation, including the condition and additional consideration that the YMCA will redevelop the City Right-of-Way and the adjoining property within two years from the date of execution of the easements and in substantial conformance with a Conceptual Plan approved by the City Council after review and recommendation by the Urban Design Review Board, and that building permits may be withheld by the City for any development within the City Right-of-way that is not in conformance with the approved Conceptual Plan; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-Way proposed to be vacated, and the City will not be inconvenienced by the vacation and conveyance of easement interests in said property as described herein.

**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 shall consider adoption of an ordinance permanently vacating air space over Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, and a portion of Grand Avenue and 6<sup>th</sup> Avenue rights-of-way adjoining 505 6<sup>th</sup> Avenue, more specifically described as follows:

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AREA 1 – GRAND AVENUE AIR SPACE EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1, ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 74° 13' 38" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 11.20 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 119.81 FEET TO THE WEST LINE OF AN EXISTING AIR RIGHTS EASEMENT; THENCE SOUTH 15° 46' 22" EAST ALONG SAID EXISTING LINE AND THE EXTENSION SOUTHERLY THEREOF, 20.22 FEET; THENCE SOUTH 83° 48' 24" WEST, 121.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.03 ACRES (1,211 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

AREA 2 – 6<sup>TH</sup> AVENUE AIR SPACE EASEMENT DESCRIPTION:

ALL OF THE AIR SPACE FOR THAT PART OF 6TH AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOTS 1 AND 2 AND LYING WEST OF AN EAST - WEST ALLEY LYING BETWEEN SAID LOT 1 AND 2 ALL IN ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 1 AND SAID ALLEY, 205.43 FEET; THENCE SOUTH 83° 48' 24" WEST, 10.50 FEET; THENCE NORTH 06° 11' 36" WEST, 272.25 FEET; THENCE NORTH 83° 48' 24" EAST, 10.50 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE, 66.82 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRES (2859 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 74.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.50 FEET CITY DATUM.

AREA A – ENCROACHMENT EASEMENT DESCRIPTION

A PART OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 AND LOT 2 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

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COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 6°(DEGREES) 11'(MINUTES) 36"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 87.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 83° 48' 22" WEST, 3.37 FEET; THENCE NORTH 06° 11' 36" WEST, 117.34 FEET; THENCE NORTH 83° 48' 23" EAST, 2.00 FEET; THENCE NORTH 06° 11' 37" WEST, 50.40 FEET; THENCE SOUTH 83° 48' 22" WEST, 1.50 FEET; THENCE NORTH 06° 11' 37" WEST, 9.00 FEET; THENCE NORTH 83° 48' 23" EAST, 2.87 FEET TO THE WEST LINE OF SAID LOT 2; THENCE SOUTH 06° 11' 36" EAST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 56.45 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE CONTINUING SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE EXTENDED SOUTHEASTERLY AND ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 120.29 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.01 AC (490 S.F.)

#### AREA B – ENCROACHMENT EASEMENT DESCRIPTION

A PART OF 6<sup>TH</sup> AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND WEST OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 6°(DEGREES) 11'(MINUTES) 36"(SECONDS) WEST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 14.91 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 83° 48' 23" WEST, 3.12 FEET; THENCE NORTH 06° 11' 37" WEST, 9.50 FEET; THENCE NORTH 83° 48' 23" EAST, 3.12 FEET TO SAID WEST LINE; THENCE SOUTH 06° 11' 36" EAST ALONG SAID WEST LINE, 9.50 FEET TO THE POINT OF BEGINNING AND CONTAINING (30 S.F.).

#### AREA C – ENCROACHMENT EASEMENT DESCRIPTION

A PART OF GRAND AVENUE RIGHT-OF-WAY LYING ADJACENT TO AND SOUTH OF LOT 1 ALHAMBRA PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 74°(DEGREES) 13'(MINUTES) 38"(SECONDS) EAST, ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 89.57 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74° 13' 38" EAST ALONG SAID SOUTH LINE, 40.62 FEET; THENCE SOUTH 06° 11' 36" EAST, 11.52 FEET; THENCE SOUTH 83° 48' 24" WEST, 6.00 FEET; THENCE NORTH 06° 11' 36" WEST, 4.76 FEET; THENCE SOUTH 83° 48' 23" WEST, 34.05 FEET TO THE POINT OF BEGINNING AND CONTAINING (164 S.F.)

AREA SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

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2. That if the City Council decides to vacate the above described right-of-way and air space, the City of Des Moines proposes to convey easements in such vacated right-of-way and air space to Young Men's Christian Association of Greater Des Moines for \$1,000, subject to all conditions set forth in the Plan and Zoning Commission recommendation and herein above.
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such easements are to be considered shall be on December 9, 2013, 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 proposal in the form hereto attached, all in accordance with Section 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 Coleman to adopt.

APPROVED AS TO FORM:

Glenna K. Frank  
 Glenna K. Frank  
 Assistant City Attorney

*pcw*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	6			
MOTION CARRIED		APPROVED		

T. M. Franklin 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.

Diane Rauh City Clerk