

SET HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF SUBSURFACE RIGHTS IN A PORTION OF 6TH AVENUE RIGHT-OF-WAY IN THE VICINITY OF 1716 6TH AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR SUBSURFACE BUILDING ENCROACHMENT ON CITY-OWNED PROPERTY TO CENTER AT SIXTH FOR \$450

WHEREAS, on November 20, 2023, by Roll Call No. 23-1607, the City Council of the City of Des Moines, Iowa, voted to receive and file a recommendation from the City Plan and Zoning Commission to approve a request to vacate subsurface rights within the 6th Avenue right-of-way in the vicinity of 1716 6th Avenue, subject to the reservation of any necessary easements for all existing utilities in place until abandoned or relocated at the applicant’s expense; and

WHEREAS, on November 2, 2023, 6th Avenue Corridor, Inc. transferred ownership of 1716 6th Avenue, now known as 1760 6th Avenue, to Center at Sixth, an Iowa non-profit corporation, for future development.

WHEREAS, Center at Sixth has offered to the City of Des Moines, Iowa (“City”) the purchase price of \$450.00 for the purchase of a Permanent Easement for Subsurface Building Encroachment On City-Owned Property (“Easement”) within the 6th Avenue right-of-way adjoining the property at 1760 6th Avenue (hereinafter “Easement Area”), for the purpose of constructing, operating and maintaining a subsurface building encroachment into the 6th Avenue right-of-way; 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 6th Avenue 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.

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 subsurface rights within a portion of 6th Avenue right-of-way adjoining the property of 1760 6th Avenue, Des Moines, Iowa, legally described as follows:

A VACATION OF PART OF THE 6TH AVENUE PUBLIC RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO LOTS 2 THROUGH 5, BLOCK 5 OF THE OFFICIAL PLAT OF THE SW1/4 NE1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M. (ALSO KNOWN AS POLK COUNTY HOMESTEAD AND TRUST COMPANY ADDITION), AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID LOT 5; THENCE N00°03'43"W, 199.97 FEET ALONG THE EAST LINE OF SAID LOTS 2 THROUGH 5, SAID EAST LINE COINCIDES WITH THE WEST

RIGHT-OF-WAY LINE OF 6TH AVENUE AS IT IS PRESENTLY ESTABLISHED, TO THE NE CORNER OF SAID LOT 2; THENCE N89°56'17"E, 2.50 FEET TO A POINT THAT IS 2.50 FEET EAST OF SAID WEST RIGHT-OF-WAY LINE; THENCE S00°03'43"E, 199.97 FEET ALONG A LINE THAT IS 2.50 FEET EAST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE TO A POINT; THENCE S89°56'17"W, 2.50 FEET TO THE POINT OF BEGINNING CONTAINING 500 SQUARE FEET MORE OR LESS.

2. The City Council of the City of Des Moines, Iowa, further proposes to convey a Permanent Easement for Subsurface Building Encroachment On City-Owned Property in such vacated right-of-way, as legally described below, to Center at Sixth for \$450.00 subject to any and all easements, restrictions and covenants of record.

A SUBSURFACE RIGHTS EASEMENT IN THE VACATED 6TH AVENUE PUBLIC RIGHT-OF-WAY LYING DIRECTLY ADJACENT TO LOTS 2 THROUGH 5, BLOCK 5 OF THE OFFICIAL PLAT OF THE SW1/4 NE1/4 OF SECTION 34, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE 5TH P.M. (ALSO KNOWN AS POLK COUNTY HOMESTEAD AND TRUST COMPANY ADDITION), AN OFFICIAL PLAT, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID LOT 5; THENCE N00°03'43"W, 199.97 FEET ALONG THE EAST LINE OF SAID LOTS 2 THROUGH 5, SAID EAST LINE COINCIDES WITH THE WEST RIGHT-OF-WAY LINE OF 6TH AVENUE AS IT IS PRESENTLY ESTABLISHED, TO THE NE CORNER OF SAID LOT 2; THENCE N89°56'17"E, 2.50 FEET TO A POINT THAT IS 2.50 FEET EAST OF SAID WEST RIGHT-OF-WAY LINE; THENCE S00°03'43"E, 199.97 FEET ALONG A LINE THAT IS 2.50 FEET EAST OF AND PARALLEL WITH SAID WEST RIGHT-OF-WAY LINE TO A POINT; THENCE S89°56'17"W, 2.50 FEET TO THE POINT OF BEGINNING CONTAINING 500 SQUARE FEET MORE OR LESS.

3. That the meeting of the City Council at which the adoption of said vacation ordinance and the sale and conveyance of such permanent easement is to be considered shall be on January 22, 2024, 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.

★ Roll Call Number

24-0044

Agenda Item Number

19

Date January 8, 2024

Page 3

Moved by Gatto to adopt. Second by Voss

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include BOESEN, VOSS, COLEMAN, WESTERGAARD, MANDELBAUM, GATTO, and TOTAL (YEAS: 5).

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 City Clerk