 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	May 20, 2013
	<b>Agenda Item No.</b>	<b>51</b>
	<b>Roll Call No.</b>	<b><u>13-825</u></b>
	<b>Communication No.</b>	<b><u>13-248</u></b>
	<b>Submitted by:</b>	<b>Jeb E. Brewer, P.E., City Engineer</b>

**AGENDA HEADING:**

Resolution closing public hearing and approving the vacation of portions of the 6th Avenue, Mulberry Street, and alley rights-of-way adjoining the Midland Building at 206 6th Avenue and the conveyance of an easement upon such vacated rights-of-way to legalize the existing building encroachment.

**SYNOPSIS:**

Recommend approval for vacation and conveyance of such easement to the owner of the Midland Building, Community State Bank, N.A., Kara M. Sinnard, Attorney, 817 Ankeny Boulevard, Ankeny, Iowa, 50023-1768, to legalize existing building encroachments. The portions of the public right-of-way occupied by the building encroachments have not been used for public purposes for approximately 100 years, and the vacation of those areas will have no impact upon the continued use of the adjoining public rights-of-way. This action is required by Iowa law prior to making a final determination on the proposed sale by resolution.

**FISCAL IMPACT:**

Amount: \$10,045 (Revenue)

Community State Bank, N.A. recently paid an Areaway Permit fee of \$1,602 for the existing encroachments for the annual period that commenced on April 1, 2013. Community State Bank, N.A. will be given credit for the unused portion of the Areaway Permit fee at closing.

Funding Source: Non-project related sale proceeds are used to support general operating budget expenses: Fund: SP767, Org: ENG980500.

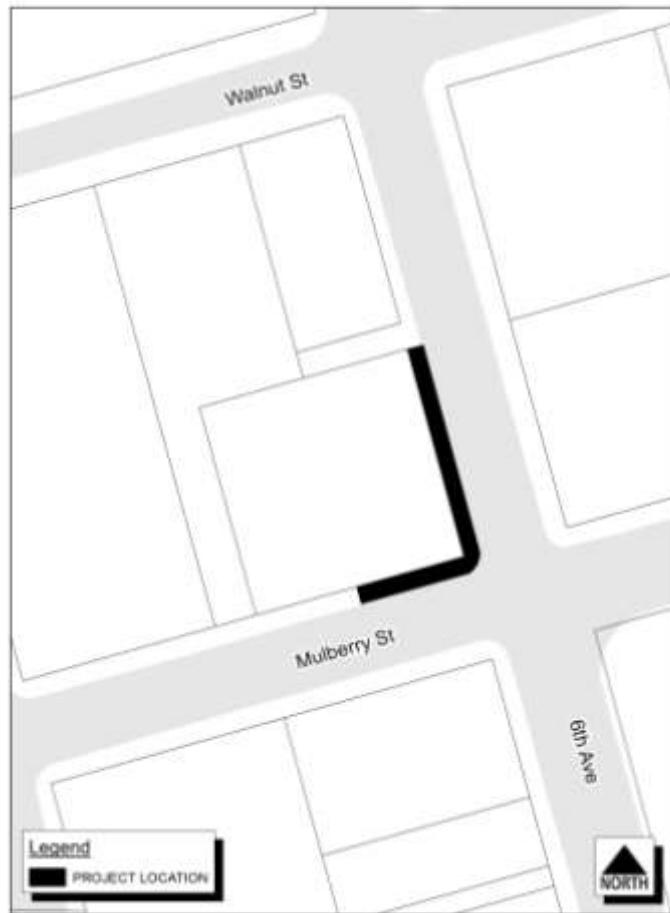
**ADDITIONAL INFORMATION:**

The Midland Building at 206 6th Avenue was constructed in 1913 with a basement that extends under the adjoining public sidewalks along 6th Avenue and Mulberry Streets and under a portion of the adjoining alley to the north, with building encroachments at the ground level that extend into the adjoining public rights-of-way, and with architectural projections that encroach into the air rights over the adjoining public rights-of-way. The building encroachments have previously been allowed under authority of a series of temporary areaway permits that require annual administration and renewal.

The Midland Building is currently owned by Community State Bank, N.A., and they have requested that the City vacate the rights-of-way occupied by the building encroachments and convey them an

easement for the continued use, maintenance and repair of the existing building encroachments for the remaining life of the building.

Community State Bank, N.A. has offered the City of Des Moines the purchase price of \$10,045 for an Easement for Building Encroachment. The subsurface easement area consists of approximately 2,197.60 square feet, the ground level easement area consists of approximately 14.10 square feet and the air rights encroachment area consists of approximately 345.30 square feet. The portions of the right-of-way occupied by the building encroachments have not been used for public purposes for approximately 100 years, and the vacation of those areas will have no impact upon the continued use of the adjoining public rights-of-way. The purchase price reflects the restricted-use fair market value of the easement interest as currently estimated by the City's Real Estate Division.



#### **PREVIOUS COUNCIL ACTION(S):**

Date: May 6, 2013

Roll Call Number: [13-0714](#)

Action: [On](#) vacation of portions of 6th Avenue, Mulberry Street and alley rights-of-way adjoining 206 6th Avenue (Midlands Building) and the conveyance of an easement upon such vacated rights-of-way to legalize the existing building encroachment, (5-20-13). Moved by Mahaffey to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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