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|  <p style="text-align: center;">Council Communication Office of the City Manager</p> | Date: | February 6, 2017 |
| | Agenda Item No. | 45 |
| | Roll Call No. | <u>17-0218</u> |
| | Communication No. | <u>17-054</u> |
| | Submitted by: | Pamela S. Cooksey, P.E., City Engineer |

AGENDA HEADING:

Hold hearing for vacation of air space, surface and subsurface rights in portions of City right-of-way adjoining 1400 Walnut Street and conveyance of permanent easements to 14 Walnut LLC for \$5,724, and acceptance of a Permanent Easement for Public Pedestrian Way from 14 Walnut LLC valued at \$1,400.

SYNOPSIS:

Recommend approval for vacation of air space, surface and subsurface rights in portions of City right-of-way adjoining 1400 Walnut Street and conveyance of a Permanent Easement for Air Space Above City-Owned Property, a Permanent Subsurface Easement for Building Encroachment on City-Owned Property, a Permanent Easement for Building Encroachment – Gate Swing, and a Permanent Easement for Building Encroachment – Door Swing in the vacated right-of-way to 14 Walnut LLC, Brian Roers, Manager, 1964 West Wayzata Boulevard, Suite 200, Long Lake, Minnesota, 55356, for \$5,724, and acceptance of a Permanent Easement for Public Pedestrian Way from 14 Walnut LLC, in order to allow for balcony, subsurface building footing and surface door and gate swing encroachments into portions of Walnut Street, 14th Street, Falcon Drive and the north/south alley right-of-way. The purchase price for the above referenced easements includes a \$1,400 credit to Buyer for the value of the Public Pedestrian Way Easement that Buyer is required to convey to the City.

There is no current or anticipated public need for the easement area to be conveyed. This action is required by Iowa law prior to making a final determination on the proposed easement by resolution.

FISCAL IMPACT:

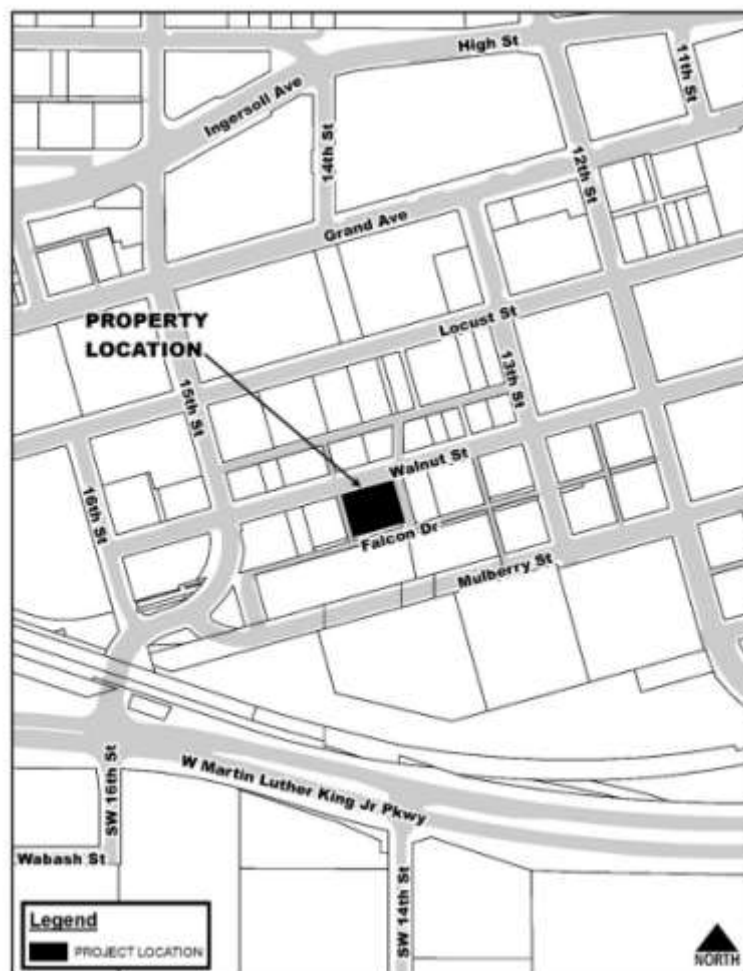
Amount: \$5,724 (Revenue)

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

ADDITIONAL INFORMATION:

- On December 5, 2016, by Roll Call Number 16-2061, the City Council of the City of Des Moines, Iowa, received and filed a recommendation from the City Plan and Zoning Commission recommending approval of a request from 14 Walnut LLC for vacation of subsurface, surface and air rights within portions of Falcon Drive, Walnut Street, 14th Street, and the north/south alley, all adjoining 1400 Walnut Street, subject to the reservation of easements for all existing utilities in place until such time as they are abandoned or relocated.

- 14 Walnut LLC, has offered the City of Des Moines the purchase price of \$5,724 for the City's conveyance of the above referenced property interests, which includes a \$1,400 credit to Buyer for the value of the Public Pedestrian Way Easement that Buyer is required to convey to the City.
- The air space easement areas to be conveyed consist of approximately 182 square feet. The subsurface easement areas to be conveyed consist of approximately 42 square feet. The gate swing easement area to be conveyed consists of approximately 69 square feet and the door swing easement area to be conveyed consists of approximately 37 square feet. The purchase price of \$5,724, and conveyance to the City of a Permanent Easement for Public Pedestrian Way valued at \$1,400 reflects the fair market value of the easements as determined by the City's Real Estate Division.



PREVIOUS COUNCIL ACTION(S):

Date: January 23, 2017

Roll Call Number: [17-0105](#)

Action: [On](#) vacation of air space, surface and subsurface rights in portions of right-of-way adjoining 1400 Walnut Street and conveyance of permanent easements to 14 Walnut LLC for \$5,724 and acceptance of a permanent easement for public pedestrian way from 14 Walnut LLC valued at \$1,400, (2-6-17). Moved by Hensley to adopt. Motion Carried 7-0.

Date: December 5, 2016

Roll Call Number: [16-2061](#)

Action: [Regarding](#) request from 14 Walnut LLC for vacation of subsurface, surface and air rights within portions of Falcon Drive, Walnut Street, 14th Street, and the north/south alley all adjoining 1400 Walnut Street for building encroachments. Moved by Hensley to receive and file the communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S):

Board: City Plan and Zoning Commission

Date: November 17, 2016

Resolution Number: 11-2016-1.23A-D

Action: Request from 14 Walnut LLC (developer) represented by Jeff Koch (officer) for the following actions regarding property located at 1400 Walnut Street. The subject property is owned by Gifford & Brown, Inc.

- A) Vacation of subsurface, surface, and air rights within the northern portion of Falcon Drive adjoining the subject property, to allow for balcony, subsurface building footing and surface door and gate encroachments. (11-2016-1.23 A)
- B) Vacation of surface and subsurface rights within the south 1 foot of Walnut Street adjoining the subject property to allow for subsurface building footing and doorway stoop encroachments. (11-2016-1.23 B)
- C) Vacation of subsurface and air rights within the west 3-feet of 14th Street adjoining the subject property, to allow for balcony and subsurface building footing encroachments. (11-2016-1.23 C)
- D) Vacation of surface and air rights within the east 3.5-feet of the north/south alley west of and adjoining the subject property to allow for balcony and doorway encroachments. (11-2016-1.23 D)

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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