

Date January 28, 2008

HOLD HEARING FOR VACATION AND CONVEYANCE OF AN EASEMENT FOR AIR SPACE ABOVE A PORTION OF 13TH STREET RIGHT-OF-WAY BETWEEN LOCUST STREET AND WALNUT STREET AND ABOVE A PORTION OF WALNUT STREET RIGHT-OF-WAY BETWEEN 12TH STREET AND 13TH STREET TO NATIONWIDE MUTUAL INSURANCE COMPANY FOR \$400

WHEREAS, the operations building being constructed by Nationwide Mutual Insurance Company on their property at 1200 Locust Street has a parapet that will extend slightly into the City right-of-way on Walnut and 13th Streets, and in order to address the situation they are requesting that the City grant them an air space easement; and

WHEREAS, the grantee identified below is the owner of property abutting such rights-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the air space easement described below; and

WHEREAS, on January 7, 2008, by Roll Call No. 08- 034, it was duly resolved by the City Council that the proposed vacation and conveyance of such air space easement be set down for hearing on January 28, 2008, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way was given as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with said notice, those interested in said proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public rights-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need for the rights-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of an air space easement above a portion of 13th Street right-of-way between Locust Street and Walnut Street, and above a portion of Walnut Street right-of-way between 12th Street and 13th Street, more specifically described as follows:

An Air Rights Easement over and across a portion of the 13th Street Right-of-Way as it is presently established between Locust Street and Walnut Street, which is located above a plane elevation of 121.50 feet and below a plane elevation of 123.00 feet, ground level elevation being 44.67 feet, City Datum, described as follows:

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Commencing at the Northwest Corner of the East 32.90 feet of Lot 6, Block 2, Allen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said Corner being at the intersection of the South Right-of-Way Line of Locust Street with the East Right-of-Way Line of 13th Street as each is presently established; thence, South 15°(Degrees) 16'(Minutes) 08"(Seconds) East along the West Line of the East 32.90 feet of said Lot 6 and along the East Right-of-Way Line of said 13th Street a distance of 5.16 feet to the Point of Beginning; thence, continuing South 15°16'08" East along the West Line of the East 32.90 feet of said Lot 6 and along the East Right-of-Way Line of said 13th Street a distance of 53.67 feet; thence, South 74°11'09" West a distance of 0.69 feet; thence, North 15°48'51" West a distance of 53.67 feet; thence, North 74°11'09" East a distance of 1.20 feet to the Point of Beginning, containing 51 square feet, more or less.

AND,

An Air Rights Easement over and across a portion of the Walnut Street Right-of-Way as it is presently established between 12th Street and 13th Street, which is located above a plane elevation of 121.50 feet and below a plane elevation of 123.00 feet, ground level elevation being 44.67 feet, City Datum, described as follows:

Commencing at a point 2.00 feet West of the Southwest Corner of Lot 4, Block 28, Keene & Poindexter's Addition, an official plat, and Campbell & McMullen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said point being at the intersection of the North Right-of-Way Line of Walnut Street with the East Right-of-Way Line of 13th Street as each is presently established; thence, North 74°(Degrees) 11'(Minutes) 19" (Seconds) East along the South Line of Lot 4 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 1.71 feet to the Point of Beginning; thence, continuing North 74°11'19" East along the South Line of Lot 4 and 3 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 79.17 feet; thence, South 15°48'51" East a distance of 1.14 feet; thence, South 74°11'09" West a distance of 79.17 feet; thence, North 15°48'51" West a distance of 1.14 feet to the Point of Beginning, containing 90 square feet, more or less;

AND,

Commencing at the Southeast Corner of Block 28, Keene & Poindexter's Addition, an official plat and Campbell and McMullen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said Corner being at the intersection of the North Right-of-Way Line of Walnut Street with the West Right-of-Way Line of 12th Street as each is presently established; thence, South 74°(Degrees) 11'(Minutes) 19"(Seconds) West along the South Line of Lot 1 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 1.68 feet to the Point of Beginning; thence, South 15°48'51" East a distance of 1.14 feet; thence, South 74°11'09" West a distance of 79.17 feet; thence, North 15°48'51" West a distance of 1.14 feet to the North Right-of-Way Line of said Walnut Street and the South line of Lot 2 in said Block 28; thence, North 74°11'19" East along the North Right-of-Way Line of said Walnut Street and the South line of Lots 1 and 2 in said Block 28, a distance of 79.17 feet to the Point of Beginning, containing 90 square feet, more or less.

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3. That the sale and conveyance of such air space easement to Nationwide Mutual Insurance Company for \$400, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

An Air Rights Easement over and across a portion of the vacated 13th Street Right-of-Way as it is presently established between Locust Street and Walnut Street, which is located above a plane elevation of 121.50 feet and below a plane elevation of 123.00 feet, ground level elevation being 44.67 feet, City Datum, described as follows:

Commencing at the Northwest Corner of the East 32.90 feet of Lot 6, Block 2, Allen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said Corner being at the intersection of the South Right-of-Way Line of Locust Street with the East Right-of-Way Line of 13th Street as each is presently established; thence, South 15°(Degrees) 16'(Minutes) 08"(Seconds) East along the West Line of the East 32.90 feet of said Lot 6 and along the East Right-of-Way Line of said 13th Street a distance of 5.16 feet to the Point of Beginning; thence, continuing South 15°16'08" East along the West Line of the East 32.90 feet of said Lot 6 and along the East Right-of-Way Line of said 13th Street a distance of 53.67 feet; thence, South 74°11'09" West a distance of 0.69 feet; thence, North 15°48'51" West a distance of 53.67 feet; thence, North 74°11'09" East a distance of 1.20 feet to the Point of Beginning, containing 51 square feet, more or less.

AND,

An Air Rights Easement over and across a portion of the vacated Walnut Street Right-of-Way as it is presently established between 12th Street and 13th Street, which is located above a plane elevation of 121.50 feet and below a plane elevation of 123.00 feet, ground level elevation being 44.67 feet, City Datum, described as follows:

Commencing at a point 2.00 feet West of the Southwest Corner of Lot 4, Block 28, Keene & Poindexter's Addition, an official plat, and Campbell & McMullen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said point being at the intersection of the North Right-of-Way Line of Walnut Street with the East Right-of-Way Line of 13th Street as each is presently established; thence, North 74°(Degrees) 11'(Minutes) 19" (Seconds) East along the South Line of Lot 4 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 1.71 feet to the Point of Beginning; thence, continuing North 74°11'19" East along the South Line of Lot 4 and 3 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 79.17 feet; thence, South 15°48'51" East a distance of 1.14 feet; thence, South 74°11'09" West a distance of 79.17 feet; thence, North 15°48'51" West a distance of 1.14 feet to the Point of Beginning, containing 90 square feet, more or less;

AND,

Commencing at the Southeast Corner of Block 28, Keene & Poindexter's Addition, an official plat and Campbell and McMullen's Addition, an official plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa, said Corner being at the intersection of the North Right-of-Way Line of Walnut Street with the West Right-of-Way Line of 12th Street as each is presently established; thence,

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South 74°(Degrees) 11'(Minutes) 19"(Seconds) West along the South Line of Lot 1 in said Block 28 and along the North Right-of-Way Line of said Walnut Street a distance of 1.68 feet to the Point of Beginning; thence, South 15°48'51" East a distance of 1.14 feet; thence, South 74°11'09" West a distance of 79.17 feet; thence, North 15°48'51" West a distance of 1.14 feet to the North Right-of-Way Line of said Walnut Street and the South line of Lot 2 in said Block 28; thence, North 74°11'19" East along the North Right-of-Way Line of said Walnut Street and the South line of Lots 1 and 2 in said Block 28, a distance of 79.17 feet to the Point of Beginning, containing 90 square feet, more or less.

4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for Use of Air Space Above City-owned Property for the conveyances identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of payment of the consideration plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the said Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Easement, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantees.

8. The proceeds from the sale of this property will be deposited into the following account: 2007-08 Operating Budget, Page 259, Property Maintenance, SP767.

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(Council Communication No. 08-040)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

psv

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLISSIS				
TOTAL				
MOTION CARRIED	APPROVED			

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.

Mayor

City Clerk