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Date May 6, 2013.....

RESOLUTION SCHEDULING PUBLIC HEARING ON THE VACATION OF PORTIONS OF THE 6th AVENUE, MULBERRY STREET AND ALLEY RIGHTS-OF-WAY ADJOINING THE MIDLANDS BUILDING AT 206 6th AVENUE AND THE CONVEYANCE OF AN EASEMENT UPON SUCH VACATED RIGHTS-OF-WAY TO LEGALIZE THE EXISTING BUILDING ENCROACHMENT

WHEREAS, 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; and,

WHEREAS, the building encroachments have previously been allowed under authority of a series of temporary areaway permits that require annual administration and renewal; and,

WHEREAS, the Midland Building is currently owned by Community State Bank, NA, and it has requested that the City vacate the rights-of-way occupied by the building encroachments, and convey it an easement for the continued use, maintenance and repair of the existing building encroachments for the remaining life of the building; and,

WHEREAS, 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; 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 those portions of the 6th Avenue, Mulberry Street and alley rights-of-way occupied by the existing encroachments from the adjoining the Midland Building at 206 6th Avenue and more specifically described in the accompanying Exhibit "A"

2. That if the City Council decides to vacate the above described rights-of-way, the City of Des Moines proposes to convey an easement to Community State Bank, N.A., or its designee, for the continued use, maintenance and repair of the existing encroachments from the Midland Building into the vacated rights-of-way, for the remaining life of the Midland Building.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance of such easement is to be considered shall be on May 20, 2013, said meeting to be held at 5:00 p.m., in the Council Chambers.

Date May 6, 2013

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.

MOVED by _____ to adopt.

FORM APPROVED:

Roger K Brown

Roger K. Brown

Assistant City Attorney

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Attachments: _____

Exhibit "A" - Description of Easement Areas

Exhibit "B" - Notice of Hearing

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

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.

MOTION CARRIED

APPROVED

Mayor

City Clerk

Exhibit "A"

Description of the easement areas proposed to be vacated and upon which an Easement for Building Encroachment of proposed to be conveyed to legalize the existing building encroachments from the Midland Building at 206 6th Avenue.

ENCROACHMENTS AT GROUND GRADE

E2 BUILDING LINE:

A STRIP OF MULBERRY STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF LOT 5 BEGINNING 70.10 FEET EAST OF THE SOUTHWEST CORNER OF LOT 5 LYING 0.35 FEET SOUTH AND 3.16 FEET EAST, ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 1.2 SQUARE FEET.

E3 BUILDING LINE:

A STRIP OF MULBERRY STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF LOT 5 BEGINNING AT THE SOUTHEAST CORNER OF LOT 5 LYING 0.25 FEET SOUTH AND 3.40 FEET WEST, ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 0.9 SQUARE FEET.

E4 BUILDING LINE:

A STRIP OF PUBLIC ALLEY LYING NORTH OF AND ADJOINING THE NORTH LINE OF LOT 6 BEGINNING AT THE NORTHEAST CORNER OF LOT 6 LYING 3.50 FEET WEST AND 3.43 FEET NORTH, ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 12.0 SQUARE FEET.

UNDERGROUND ENCROACHMENTS

UE1 BASEMENT EXTENSION:

THE SUBSURFACE AREA EXTENDING BELOW GRADE BENEATH A 12.10 FEET WIDE STRIP OF 6TH AVENUE RIGHT OF WAY LYING EAST OF AND ADJOINING THE EAST LINE OF LOT 5, AND BENEATH A 12.10 FEET WIDE STRIP OF 6TH AVENUE RIGHT OF WAY LYING EAST OF AND ADJOINING THE EAST LINE OF LOT 6 EXCEPT THE NORTHERLY 33.00 FEET THEREOF, ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES

MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 1210.6 SQUARE FEET.

UE2 BASEMENT EXTENSION:

THE SUBSURFACE AREA EXTENDING BELOW GRADE BENEATH A STRIP OF MULBERRY STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF LOT 5, BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, BEGINNING 65.00 FEET EAST OF THE SOUTHWEST CORNER OF LOT 5 LYING 12.10 SOUTH; AND BENEATH A QUARTER-ROUND SHAPED PIECE BOUNDED BY A LINE COMMENCING AT A POINT AT THE SOUTHEAST CORNER OF SAID LOT 5, THENCE SOUTH 12.10 FEET, THENCE NORTHEASTERLY ON A CURVE HAVING A RADIUS OF 12.10 FEET TO A POINT 12.10 FEET EAST OF THE SOUTHEAST CORNER OF SAID LOT 5; THENCE WEST TO THE POINT OF BEGINNING; ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 712.3 SQUARE FEET.

UE3 BASEMENT EXTENSION:

THE SUBSURFACE AREA EXTENDING BELOW GRADE BENEATH A 4.10 FEET WIDE STRIP OF PUBLIC ALLEY LYING NORTH OF AND ADJOINING LOT 6 BEGINNING AT THE NORTHEAST CORNER OF LOT 6 EXTENDING 67.00 FEET WEST ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 274.7 SQUARE FEET.

ABOVE GROUND ENCROACHMENTS

AR1 MID LEVEL AND UPPER CORNICE EXTENSION:

THE AIR RIGHTS COMMENCING 18 FEET ABOVE GRADE OVER THE WEST 1.60 FEET OF 6TH AVENUE RIGHT OF WAY LYING EAST OF AND ADJOINING LOT 5 AND LOT 6; OVER THE NORTH 1.00 FEET OF MULBERRY STREET RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 5 EXCEPT THE WEST 73.00 FEET THEREOF; OVER THE SOUTH 1.60 FEET OF PUBLIC ALLEY LYING NORTH OF AND ADJOINING LOT 6 EXCEPT THE WEST 112.00 FEET THEREOF, ALL IN AND ADJOINING BLOCK ELEVEN IN THE ORIGINAL TOWN OF FORT DES MOINES, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 345.3 SQUARE FEET.