

Date June 8, 2015

**HOLD HEARING FOR VACATION OF SUBSURFACE RIGHTS WITHIN WALNUT STREET AND 8<sup>TH</sup> STREET RIGHT-OF-WAY AND CONVEYANCE OF A PERMANENT SUBSURFACE EASEMENT TO EMPLOYERS MUTUAL CASUALTY COMPANY FOR \$1,090.00**

**WHEREAS**, Employers Mutual Casualty Company is the owner of the real property currently known as 712 Walnut Street upon which they propose to construct a new building to allow for expansion of their existing business at 717 Mulberry Street; and

**WHEREAS**, upon completion of the new building the address will be changed from 712 Walnut Street to 219 8<sup>th</sup> Street, Des Moines, Iowa; and

**WHEREAS**, Employers Mutual Casualty Company has offered to the City of Des Moines the purchase price of \$1,090.00 for the vacation and conveyance of a permanent easement for subsurface building encroachment within subsurface portions of Walnut Street and 8<sup>th</sup> Street rights-of-way adjoining 219 8<sup>th</sup> Street, as legally described below, for the purpose of using, repairing, and maintaining the footings and foundations extending from the proposed new building at 219 8<sup>th</sup> Street, which price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

**WHEREAS**, such subsurface portion of City-owned Walnut Street and 8<sup>th</sup> Street rights-of-way has been determined by the City Engineer and City Traffic Engineer to have a de minimis impact upon the public use of Walnut Street and 8<sup>th</sup> Street thereby obviating the required Plan and Zoning Commission review; and

**WHEREAS**, on May 18, 2015, by Roll Call No. 15-0810, it was duly resolved by the City Council that the proposed vacation and conveyance of such easement be set down for hearing on June 8, 2015, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate said City right-of-way and convey the subsurface easement 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, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to said proposed vacation and conveyance of the subsurface easement as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of a subsurface portion of City right-of-way within Walnut

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Street and 8<sup>th</sup> Street adjoining the property locally known as 219 8<sup>th</sup> Street, more specifically described as follows:

THE SW1/4 OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. THAT LIES DIRECTLY ADJACENT TO AND ADJOINING THE NORTH AND WEST LINES OF BLOCK 2, FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 3 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID BLOCK 2; THENCE S15°06'33"E, 133.38 FEET ALONG THE WEST LINE OF SAID BLOCK TO POINT; THENCE S74°28'26"W, 0.30 FEET TO A POINT; THENCE N15°06'33"W, 18.18 FEET ALONG A LINE THAT IS 0.30 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT; THENCE S74°53'27"W, 1.10 FEET TO A POINT; THENCE N15°06'33"W, 7.20 FEET ALONG A LINE THAT IS 1.40 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT; THENCE N74°53'27"E, 0.80 FEET TO A POINT; THENCE N15°06'33"W, 22.25 FEET ALONG A LINE THAT IS 0.80 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT; THENCE S74°53'27"W, 1.20 FEET TO A POINT; THENCE N15°06'33"W, 8.40 FEET ALONG A LINE THAT IS 1.80 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT; THENCE N74°53'27"E, 1.60 FEET TO A POINT; THENCE N15°06'33"W, 69.85 FEET ALONG A LINE THAT IS 0.20 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT; THENCE S74°53'27"W, 0.80 FEET TO A POINT; THENCE N15°06'33"W, 8.00 FEET ALONG A LINE THAT IS 1.00 FEET WEST OF AND PARALLEL TO SAID WEST LINE TO A POINT THAT IS 0.50 FEET NORTH OF THE NORTH LINE OF SAID BLOCK 2; THENCE N74°29'23"E, 8.00 FEET ALONG A LINE THAT IS 0.50 FEET NORTH OF AND PARALLEL TO SAID NORTH LINE TO A POINT; S15°30'37"E, 0.50 FEET TO A POINT ON THE NORTH LINE OF SAID BLOCK 2; S74°29'23"W, 7.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 69 SQUARE FEET

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID BLOCK 2; THENCE N74°29'23"E, 20.38 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE N15°30'37"W, 0.70 FEET TO A POINT; THENCE N74°29'23"E, 5.00 FEET ALONG A LINE THAT IS PARALLEL TO SAID NORTH LINE TO A POINT; THENCE S15°30'37"E, 0.70 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 5.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 3.5 SQUARE FEET

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID BLOCK 2; THENCE N74°29'23"E, 48.88 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE N15°30'37"W, 0.40 FEET TO A POINT; THENCE N74°29'23"E, 8.00 FEET ALONG A LINE THAT IS PARALLEL TO SAID NORTH LINE TO A POINT; THENCE S15°30'37"E,

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0.40 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 8.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 3.2 SQUARE FEET

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID BLOCK 2; THENCE N74°29'23"E, 78.88 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE N15°30'37"W, 0.50 FEET TO A POINT; THENCE N74°29'23"E, 8.00 FEET ALONG A LINE THAT IS PARALLEL TO SAID NORTH LINE TO A POINT; THENCE S15°30'37"E, 0.50 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 8.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 4.0 SQUARE FEET

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID BLOCK 2; THENCE N74°29'23"E, 110.38 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE N15°30'37"W, 0.80 FEET TO A POINT; THENCE N74°29'23"E, 5.00 FEET ALONG A LINE THAT IS PARALLEL TO SAID NORTH LINE TO A POINT; THENCE S15°30'37"E, 0.80 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 5.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 4.0 SQUARE FEET

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3. That the sale and conveyance of an easement for subsurface building encroachment within such vacated City right-of-way, as described below, to Employers Mutual Casualty Company for \$1,090.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

A SUBSURFACE FOUNDATION EASEMENT IN THE VACATED SW1/4 OF SECTION 4, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M. THAT LIES DIRECTLY ADJACENT TO AND ADJOINING THE NORTH AND WEST LINES OF BLOCK 2, FORT DES MOINES, AN OFFICIAL PLAT RECORDED IN BOOK 'A', PAGE 3 AT THE POLK COUNTY RECORDER'S OFFICE, CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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0.50 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 8.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 4.0 SQUARE FEET

AND

COMMENCING AS A POINT OF REFERENCE AT THE NW CORNER OF SAID BLOCK 2; THENCE N74°29'23"E, 110.38 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE N15°30'37"W, 0.80 FEET TO A POINT; THENCE N74°29'23"E, 5.00 FEET ALONG A LINE THAT IS PARALLEL TO SAID NORTH LINE TO A POINT; THENCE S15°30'37"E, 0.80 FEET TO A POINT ON SAID NORTH LINE; THENCE S74°29'23"W, 5.00 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 4.0 SQUARE FEET

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4. The Mayor is authorized and directed to sign the Offer to Purchase and the Easement for the conveyance 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 said subsurface portion of 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 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 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 grantee.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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(Council Communication No. 15-301)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

*FW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				
MOTION CARRIED		APPROVED		
_____ Mayor				

**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.

\_\_\_\_\_ City Clerk