

**Date** September 28, 2015

**SET HEARING FOR VACATION OF CITY STREET AND ALLEY RIGHTS-OF-WAY  
ADJOINING 915 MULBERRY STREET AND CONVEYANCE OF A SUBSURFACE  
EASEMENT WITHIN MULBERRY STREET, 9<sup>TH</sup> STREET, NORTH/SOUTH ALLEY RIGHT-  
OF-WAY AND EAST/WEST ALLEY RIGHT-OF-WAY ALL ADJOINING 915 MULBERRY  
STREET TO HUBBELL REALTY COMPANY FOR \$7,000.00**

**WHEREAS**, Hubbell Realty Company is the owner of the real property locally known as 915 Mulberry Street, which property is being developed into the DWELL Apartments; and

**WHEREAS**, Hubbell Realty Company has requested the vacation of portions of Mulberry Street and 9<sup>th</sup> Street, and north/south and east/west alley rights-of-way all adjoining 915 Mulberry Street ("City Right-of-Way"), hereinafter more fully described, and has requested that the City convey easement interests in subsurface rights in the vacated City Right-of-Way to Hubbell Realty Company to allow for building footings for the proposed DWELL Apartments; and

**WHEREAS**, Hubbell Realty Company, owner of the adjoining property at 915 Mulberry Street, has offered to the City of Des Moines the purchase price of \$7,000.00 for the vacation and purchase of the subsurface easement interests in the City Right-of-Way, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

**WHEREAS**, the easement interests in the City Right-of-Way proposed to be vacated and conveyed have been determined by the City Engineer and City Traffic Engineer to have no significant impact on public access, and the City will not be inconvenienced by the vacation of said Right-of-Way and the conveyance of said easements.

**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, Iowa, shall consider adoption of an ordinance permanently vacating portions of Mulberry Street and 9<sup>th</sup> Street, and north/south and east/west alley rights-of-way adjoining 915 Mulberry Street, more specifically described as follows:

All that portion of 9<sup>th</sup> Street Right of Way lying between Mulberry Street and Walnut Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa; thence N15°22'47"W along the west right of way line of said 9<sup>th</sup> Street, a distance of 133.99 feet; thence N74°15'58"E, a distance of 0.63 feet; thence S15°44'02"E, a distance of 136.33 feet; thence S74°15'58"W, a distance of 1.47 feet to the west Right of Way line of said 9th Street; thence N15°22'47"W along said west Right of Way line, a distance of 2.34 feet to the point of beginning.

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All that portion of Mulberry Street Right of Way lying between 9<sup>th</sup> Street and 10<sup>th</sup> Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S15°22'47"E along the southerly extension of the east line of said Lot 1, a distance of 2.34 feet; thence S74°15'58"W, a distance of 141.20 feet; thence N15°44'02"W, a distance of 2.10 feet to the north Right of Way line of said Mulberry Street; thence N74°10'12"E, a distance of 141.21 feet to the point of beginning.

All that portion of the east – west alley lying adjacent to and north of Lot 2, Block 2, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Beginning at the northeast corner of said Lot 2; thence S74°10'15"W along the north line and the westerly extension of the north line of said Lot 2, a distance of 142.03 feet; thence N15°44'02"W, a distance of 2.23 feet; thence N74°15'58"E, a distance of 142.04 feet to the west Right of Way line of 9<sup>th</sup> Street as it is presently established; thence S15°22'47"E along the west Right of Way line of said 9<sup>th</sup> Street, a distance of 2.00 feet to the point of beginning.

All that portion of the north – south alley lying adjacent to and west of Lot 2, Block 2, West Fort Des Moines, an Official Plat, and adjacent to and west of Lots 1 and 2, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat , all in Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S74°10'12"W along the south line of said Lot 1 and along the westerly extension of said Lot 1, a distance of 140.77 feet to the point of beginning; thence continuing S74°10'12"W along the westerly extension of the south line of said Lot 1, a distance of 0.44 feet; thence N15°44'02"W, a distance of 132.00 feet; thence N74°10'15"E along the westerly extension of the north line of Lot 2, Block 12, in said West Fort Des Moines, a distance of 1.30 feet; thence S15°21'26"E, a distance of 132.00 feet to the point of beginning.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described rights-of-way, the City of Des Moines proposes to sell subsurface easement interests in the vacated rights-of-way, all legally described as follows, to Hubbell Realty Company for \$7,000.00, subject to the requirements of the Offer to Purchase:

All that portion of vacated 9<sup>th</sup> Street Right of Way lying between Mulberry Street and Walnut Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa; thence N15°22'47"W along the west right of way line of said 9<sup>th</sup> Street, a distance of 133.99 feet; thence N74°15'58"E, a distance of 0.63 feet; thence S15°44'02"E, a distance of 136.33 feet; thence S74°15'58"W, a distance of 1.47 feet to the west Right of Way line of said 9<sup>th</sup> Street; thence N15°22'47"W along said west Right of Way line, a distance of 2.34 feet to the point of beginning.



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All that portion of vacated Mulberry Street Right of Way lying between 9<sup>th</sup> Street and 10<sup>th</sup> Street as they are presently established, all more particularly described as follows: Beginning at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S15°22'47"E along the southerly extension of the east line of said Lot 1, a distance of 2.34 feet; thence S74°15'58"W, a distance of 141.20 feet; thence N15°44'02"W, a distance of 2.10 feet to the north Right of Way line of said Mulberry Street; thence N74°10'12"E, a distance of 141.21 feet to the point of beginning.

All that portion of the vacated east – west alley lying adjacent to and north of Lot 2, Block 2, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa, all more particularly described as follows: Beginning at the northeast corner of said Lot 2; thence S74°10'15"W along the north line and the westerly extension of the north line of said Lot 2, a distance of 142.03 feet; thence N15°44'02"W, a distance of 2.23 feet; thence N74°15'58"E, a distance of 142.04 feet to the west Right of Way line of 9<sup>th</sup> Street as it is presently established; thence S15°22'47"E along the west Right of Way line of said 9<sup>th</sup> Street, a distance of 2.00 feet to the point of beginning.

All that portion of the vacated north – south alley lying adjacent to and west of Lot 2, Block 2, West Fort Des Moines, an Official Plat, and adjacent to and west of Lots 1 and 2, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat , all in Des Moines, Polk County, Iowa, all more particularly described as follows: Commencing at the southeast corner of Lot 1, Block 12, H.M. Hoxie's Addition to the Town of Fort Des Moines, Iowa, an Official Plat, Des Moines, Polk County, Iowa ; thence S74°10'12"W along the south line of said Lot 1 and along the westerly extension of said Lot 1, a distance of 140.77 feet to the point of beginning; thence continuing S74°10'12"W along the westerly extension of the south line of said Lot 1, a distance of 0.44 feet; thence N15°44'02"W, a distance of 132.00 feet; thence N74°10'15"E along the westerly extension of the north line of Lot 2, Block 12, in said West Fort Des Moines, a distance of 1.30 feet; thence S15°21'26"E, a distance of 132.00 feet to the point of beginning.

3. That the meeting of the City Council of the City of Des Moines, Iowa, at which the adoption of said ordinance and the conveyance of such easement interests is to be considered shall be held on October 12, 2015, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.
4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.
5. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.



# Roll Call Number

Agenda Item Number

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

APPROVED AS TO FORM:

*(Signature)*

Lisa A. Wieland, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GREY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

## CERTIFICATE

I, Laura Baumgartner, Chief Deputy 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.

Chief Deputy City Clerk

