

Date June 10, 2013

HEARING FOR VACATION AND CONVEYANCE OF EASEMENT FOR USE OF AIR SPACE OVER A SEGMENT OF 8TH STREET BETWEEN PARK STREET AND PLEASANT STREET TO PRINCIPAL LIFE INSURANCE COMPANY FOR \$6,550

WHEREAS, on May 20, 2013, by Roll Call No. 13-0795, the City Council received a recommendation from the City Plan and Zoning Commission that a portion of the air rights over a segment of 8th Street between Park Street and Pleasant Street, hereinafter more fully described, be vacated to allow for a private enclosed pedestrian sky bridge that would cross diagonally within said air space and connect the buildings located at 600 7th Street and 650 8th Street; and

WHEREAS, Principal Life Insurance Company ("Principal") is the owner of the real property locally known as 600 7th Street and 650 8th Street which abuts said City-owned air space, and Principal has offered to the City of Des Moines the purchase price of \$6,550.00 for the vacation and purchase of an easement interest in such air space for construction and maintenance of the proposed private sky bridge to connect Principal's properties, which purchase price reflects the fair market value of the easement as currently estimated by the City's Real Estate Division; and

WHEREAS, there is no known current or future public need or benefit for the air space proposed to be vacated and conveyed by easement, and the City will not be inconvenienced by the vacation and conveyance of said property interest; and

WHEREAS, on May 20, 2013, by Roll Call No. 13-0796, it was duly resolved by the City Council that the proposed vacation and conveyance of such easement be set down for hearing on June 10, 2013, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey the easement for use of air space 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 objections to said proposed vacation and conveyance of the easement for use of air space 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 portion of air space over a segment of 8th Street between Park Street and Pleasant Street, more specifically described as follows, and said vacation is hereby approved:

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ALL OF THE AIR SPACE FOR THAT PART OF 8TH STREET RIGHT-OF-WAY ADJOINING PARCEL D (AS RECORDED IN BOOK 13515 AT PAGE 580) OF PART OF LOTS 1, 2, AND 3 OF KEOSAUQUA WAY PLAT NO. 1, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL D; THENCE SOUTH 89°(DEGREES) 35'(MINUTES) 48"(SECONDS) EAST ALONG THE NORTH LINE OF SAID PARCEL D AND THE WESTERLY EXTENSION OF THE SOUTH RIGHT-OF-WAY LINE OF PARK STREET AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 12.12 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF 8TH STREET AS IT IS PRESENTLY ESTABLISHED, SAID POINT BEING 91.59 FEET WESTERLY OF THE NORTHEAST CORNER OF LOT 1, IN SAID KEOSAUQUA WAY PLAT NO. 1; THENCE SOUTH 08°56'39" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 88.27 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 08°56'39"EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 8TH STREET, A DISTANCE OF 30.92 FEET; THENCE SOUTH 88°28'08" WEST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 0.88 FEET; THENCE SOUTH 34°50'12" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 1.94 FEET; THENCE SOUTH 08°55'46" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 3.13 FEET; THENCE SOUTH 29°09'17"WEST, A DISTANCE OF 118.91 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID 8TH STREET; THENCE NORTH 08°50'20"WEST ALONG THE WEST RIGHT-OF-WAY LINE OF SAID 8TH STREET, A DISTANCE OF 35.74 FEET; THENCE NORTH 29°09'17"EAST, A DISTANCE OF 118.84 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.06 ACRES (2,615 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 103.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 83.48 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING 61.50 FEET CITY DATUM.

3. That the sale and conveyance of an easement in such vacated air space as described below to Principal Life Insurance Company for \$6,550, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved with closing subject to design and site plan approval in accordance with the terms of the development agreement between the City and Principal Life Insurance Company:

AIR SPACE EASEMENT

ALL OF THE VACATED AIR SPACE FOR THAT PART OF 8TH STREET RIGHT-OF-WAY ADJOINING PARCEL D (AS RECORDED IN BOOK 13515 AT PAGE 580) OF PART OF LOTS 1, 2, AND 3 OF KEOSAUQUA WAY PLAT NO. 1, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL D; THENCE SOUTH 89°(DEGREES) 35'(MINUTES) 48"(SECONDS) EAST ALONG THE NORTH LINE OF SAID PARCEL D AND THE WESTERLY EXTENSION OF THE SOUTH RIGHT-OF-WAY LINE OF PARK STREET AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 12.12 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF 8TH STREET AS IT IS PRESENTLY ESTABLISHED, SAID POINT BEING 91.59 FEET WESTERLY OF THE NORTHEAST CORNER OF LOT 1, IN SAID KEOSAUQUA WAY PLAT NO. 1; THENCE SOUTH 08°56'39" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 88.27 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 08°56'39"EAST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID 8TH STREET, A DISTANCE OF 30.92 FEET; THENCE SOUTH 88°28'08" WEST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 0.88 FEET; THENCE SOUTH 34°50'12" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET,

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A DISTANCE OF 1.94 FEET; THENCE SOUTH 08°55'46" EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID 8TH STREET, A DISTANCE OF 3.13 FEET; THENCE SOUTH 29°09'17" WEST, A DISTANCE OF 118.91 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID 8TH STREET; THENCE NORTH 08°50'20" WEST ALONG THE WEST RIGHT-OF-WAY LINE OF SAID 8TH STREET, A DISTANCE OF 35.74 FEET; THENCE NORTH 29°09'17" EAST, A DISTANCE OF 118.84 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.06 ACRES (2,615 S.F.) WHICH IS BELOW A PLANE ELEVATION OF 103.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 83.48 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING 61.50 FEET CITY DATUM.

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 air space 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 following closing.

6. Upon design and site plan approval in accordance with the terms of the development agreement between the City and Principal Life Insurance Company, the Real Estate Division Manager is authorized and directed to close on the sale and 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. The proceeds from the sale of this property shall be deposited into the following account: Fund: SP767, Org: ENG980500.

(Council Communication No. 13- 283)

APPROVED AS TO FORM:

Glenna K. Frank
Glenna K. Frank, Assistant City Attorney

Moved by Hensley to adopt.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

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.

T. M. Franklin Mayor

Diane Fauh City Clerk