

★ Roll Call Number

14-0038

Agenda Item Number

17

Date January 13, 2014

**ACCEPTANCE OF PROPERTY DOCUMENTS FOR THE
EUCLID AVENUE INTERSECTION IMPROVEMENTS PROJECT**

WHEREAS, on May 23, 2011, by Roll Call No. 11-0883, the City Council authorized acquisition of the necessary right-of-way and easements for the Euclid Avenue Intersection Improvements Project by gift, negotiation or condemnation; and

WHEREAS, HPM Investment, Inc. is the owner of property locally known as 100, 104 and 150 East Euclid Avenue, Walgreen Co. is the tenant of 104 East Euclid Avenue, and Bankers Trust Company is the tenant of 150 East Euclid Avenue, and the City requires a warranty deed for partial fee acquisition, permanent easement for public utilities, traffic signal and street lighting systems and roadway clear zone, and a temporary easement for construction and construction-related activities upon such property for construction and maintenance of a portion of the Euclid Avenue Intersection Improvements Project; and

WHEREAS, City staff, HPM Investment, Inc., Walgreen Co. and Bankers Trust Company have negotiated the terms of said documents including, among other terms, provisions in both easement documents by which the City agrees to indemnify, defend and hold harmless HPM Investment, Inc., Walgreen Co. and Bankers Trust Company from claims directly related to the acts or omissions of the City, its agents, contractors, employees, representatives, licensees or invitees in connection with the easement rights and obligations, or from any accident, damage, death or injury to persons or property directly related to its exercise of rights granted under the easements, including the use of any equipment in furtherance thereof, except for claims suffered as a result of the negligence, recklessness and/or intentional acts or omissions of HPM Investment, Inc., Walgreen Co. or Bankers Trust or their respective agents, contractors, employees, representatives, licensees or invitees; and

WHEREAS, said property documents are now being presented to the City Council for acceptance due to the aforementioned terms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the following documents as on file with the City Real Estate Division Manager, recommended for approval and acceptance by the Real Estate Division of the Engineering Department, be and are hereby approved and accepted as follows:

Property Owner:	HPM Investment, Inc.
Tenant:	Walgreen Co.; Bankers Trust Company
Property Location:	100-104-150 East Euclid Avenue, Des Moines, IA 50313
Document Type:	Offer to Purchase Real Estate and Acceptance (Partial Acquisition); Warranty Deed; Permanent Easement for Public Utilities, Traffic Signal and Street Lighting Systems and Roadway Clear Zone; Temporary Easement for Construction and Construction-Related Activities

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BE IT FURTHER RESOLVED, that the Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, said Offer, and the City Clerk is directed to acknowledge acceptance of the remaining documents and other related real estate documents, for and on behalf of the City of Des Moines, Iowa, following approval as to form by the City Legal Department.

BE IT FURTHER RESOLVED, that the City Real Estate Division Manager is directed to proceed to close in accordance with standard real estate practices, following review and approval as to form by the City Legal Department, and to record the documents with the Polk County Recorder's Office, as applicable.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

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

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
VOSS	✓			
TOTAL	7			
MOTION CARRIED	APPROVED			

T. M. Franklin 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.

Diane Rauh City Clerk