

★ Roll Call Number

15-1862

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Date November 9, 2015

**SET HEARING FOR VACATION OF CITY STREET AND ALLEY RIGHTS-OF-WAY
ADJOINING 915 MULBERRY STREET AND CONVEYANCE OF A PERMANENT
EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY WITHIN MULBERRY
STREET, 9TH STREET, AND THE EAST/WEST ALLEY RIGHT-OF-WAY ALL ADJOINING
915 MULBERRY STREET TO HUBBELL TOWERS II, L.L.C. FOR \$5,922.00**

WHEREAS, Hubbell Towers II, L.L.C. 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 Towers II, L.L.C. has requested the vacation of air space over portions of Mulberry Street, 9th Street, and east/west alley rights-of-way adjoining 915 Mulberry Street ("City Right-of-Way"), hereinafter more fully described, and has further requested that the City of Des Moines, Iowa ("City") convey a Permanent Easement For Air Space Above City-Owned Property in the vacated City Right-of-Way to Hubbell Towers II, L.L.C., to allow for the construction of a second floor canopy, a first floor awning, light canopies and a pedestrian air bridge as part of the proposed DWELL Apartments; and

WHEREAS, Hubbell Towers II, L.L.C., owner of the adjoining property at 915 Mulberry Street, has offered to the City the purchase price of \$5,922.00 for the vacation and purchase of the Permanent Easement for Air Space Above City-Owned Property 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, on October 15, 2015, the City Plan and Zoning Commission voted to recommend approval of the requested vacation of the City Right-of-Way subject to a City approved site plan; and

WHEREAS, on October 26, 2015, by Roll Call No. 15-1775, the City Council of the City of Des Moines, Iowa, received and filed the above described communication from the Plan and Zoning Commission; and

WHEREAS, there is no known current or future public need for the City Right-of-Way proposed to be vacated and conveyed, and the City will not be inconvenienced by the sale of said property.

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 air space over portions of Mulberry Street, 9th Street, and east/west alley rights-of-way adjoining 915 Mulberry Street, more specifically described as follows:

SKYWALK – 2nd Floor

ALL OF THE AIR SPACE FOR THAT PART OF THE EAST-WEST ALLEY LYING NORTH OF AND ADJOINING LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

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COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 74°(DEGREES) 10'(MINUTES) 15"(SECONDS) WEST ALONG THE NORTH LINE OF SAID LOT 2 AND ALONG THE SOUTH LINE OF SAID ALLEY AS IT IS PRESENTLY ESTABLISHED, A DISTANCE OF 27.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°10'15" WEST ALONG SAID SOUTH LINE OF ALLEY, A DISTANCE OF 12.00 FEET; THENCE NORTH 15°44'02" WEST, A DISTANCE OF 16.50 FEET TO THE NORTH LINE OF SAID ALLEY; THENCE NORTH 74°10'15" EAST ALONG SAID NORTH LINE, A DISTANCE OF 12.00 FEET; THENCE SOUTH 15°44'02" EAST, A DISTANCE OF 16.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 198.00 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 64.75 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 48.50 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.50 FEET CITY DATUM,

CANTILEVER – 5th Floor

ALL OF THE AIR SPACE FOR THAT PART OF MULBERRY STREET RIGHT-OF-WAY ADJOINING 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, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 15°(DEGREES) 22'(MINUTES) 47"(SECONDS) EAST ALONG THE SOUTHERLY PROJECTION OF THE EAST LINE OF SAID LOT 1, A DISTANCE OF 2.00 FEET; THENCE SOUTH 74°10'12" WEST PARALLEL WITH AND 2.00 FEET SOUTH OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 13.00 FEET; THENCE NORTH 15°22'47" WEST, A DISTANCE OF 2.00 FEET TO THE SOUTH LINE OF SAID LOT 1; THENCE NORTH 74°10'12" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 13.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 26.00 SQUARE FEET, WHICH IS BELOW A PLANE ELEVATION OF 97.50 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 83.00 FEET CITY DATUM. ASSUMED GROUND ELEVATION BEING AT OR NEAR 37.00 FEET CITY DATUM,

LIGHT CANOPIES – 1st Floor

ALL OF THE AIR SPACE FOR THAT PART OF 9th STREET RIGHT-OF-WAY ADJOINING LOT 1, BLOCK 12, H.M. HOXIE'S ADDITION TO THE TOWN OF FORT DES MOINES, IOWA, AN OFFICIAL PLAT, AND LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, ALL IN DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

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CANOPY – 2nd Floor

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- 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 proposes to sell a Permanent Easement for Air Space Above City-Owned Property in the vacated rights-of-way, legally described as follows, to Hubbell Towers II, L.L.C. for \$5,922.00, subject to the requirements of the Offer to Purchase:

SKYWALK – 2nd Floor

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE EAST-WEST ALLEY LYING NORTH OF AND ADJOINING LOT 2, BLOCK 2, WEST FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS:

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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 November 23, 2015, at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

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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.

Moved by Gatto to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland
 Lisa A. Wieland, Assistant City Attorney

RSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN				✓
GATTO	✓			
GREY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
TOTAL	6			1

T. M. Franklin Council 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.

Deane Fark
 Chief Deputy City Clerk