

Date September 26, 2016

HOLD HEARING FOR VACATION OF AIR SPACE AND SUBSURFACE RIGHTS IN PORTIONS OF STREET AND ALLEY RIGHT-OF-WAY ADJOINING 717 GRAND AVENUE AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE WITHIN 8TH STREET AND LOCUST STREET RIGHT-OF-WAY, AND CONVEYANCE OF A PERMANENT SUBSURFACE EASEMENT WITHIN 8TH STREET, LOCUST STREET, GRAND AVENUE AND ALLEY RIGHT-OF-WAY ADJOINING 717 LOCUST STREET, TO R & T LOFTS, L.P. FOR \$124,000.00

WHEREAS, R & T Lofts, L.P. is the owner of the real property locally known as 717 Locust Street, which property contains an existing second floor building awning and an existing subsurface building footing and foundation which collectively encroach into portions of the 8th Street, Locust Street, Grand Avenue and alley right-of-way all adjoining 717 Locust Street; and

WHEREAS, R & T Lofts, L.P. has requested the vacation of air space and subsurface rights in portions of 8th Street, Locust Street, Grand Avenue and alley right-of-way all adjoining 717 Locust Street (“City Right-of-Way”), hereinafter more fully described (collectively “City Right-of-Way”), and has further requested that the City of Des Moines, Iowa (“City”) convey unto R & T Lofts, L.P. a Permanent Easement For Air Space Above City-Owned Property in the vacated portion of 8th Street and Locust Street right-of-way, and a Permanent Subsurface Easement for Building Encroachment in the vacated 8th Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, hereinafter more fully described, in order to mitigate the existing second floor awning encroachments and building footing and foundation encroachments; and

WHEREAS, R & T Lofts, L.P., owner of the adjoining property at 717 Locust Street, has offered to the City the purchase price of \$124,000.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment in the vacated 8th Street, Locust Street, Grand Avenue and alley right-of-way, all adjoining 717 Locust Street, which price reflects the fair market value of the City Right-of-Way as determined by the City’s Real Estate Division; and

WHEREAS, said easements 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 City Right-of-Way and the conveyance of said easements.

WHEREAS, on September 12, 2016, by Roll Call No. 16-1508, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of such easement interests be set down for hearing on September 26, 2016, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate air space and subsurface rights in portions of said City Right-of-Way and convey a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment was given as provided by law, setting forth the time and place for hearing on said proposal; and



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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 of the City of Des Moines, Iowa.

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 air space and subsurface easements as described below are hereby overruled, and the hearing is closed.
2. There is no public need or benefit for the City Right-of-Way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of air space and subsurface rights in portions of 8th Street, Locust Street, Grand Avenue and alley right-of-way adjoining 717 Locust Street, more specifically described as follows:

AIR SPACE

8th Street

That part of 8th Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southwest corner of Lot 4 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 57'(minutes) 20"(seconds) West, 11.50 feet; thence North 15°30'00" West, 282.38 feet; thence North 73°53'40" East, 11.50 feet to the Northwest corner of Lot 6 in said Block A of Commissioners Addition to Fort Des Moines; thence South 15°30'00" East, 282.39 feet along the West line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 3,247 square feet, more or less.

Locust Street

That part of Locust Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 16°(degrees) 02'(minutes) 40"(seconds) East, 11.60 feet; thence South 73°57'20" West, 145.78 feet; thence North 15°30'00" West, 11.60 feet; thence North 73°57'20" East, 11.50 feet to the Southwest corner of Lot 4 in said Block A of Commissioners Addition to Fort Des

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Moines; thence North $73^{\circ}57'20''$ East, 134.17 feet along the South line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 1,690 square feet, more or less.

SUBSURFACE

Grand Avenue

That part of Grand Avenue Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Northwest corner of Lot 6 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73° (degrees) $53'$ (minutes) $40''$ (seconds) West, 11.50 feet; thence North $15^{\circ}30'00''$ West, 5.00 feet; thence North $73^{\circ}53'40''$ East, 145.18 feet; thence South $15^{\circ}35'51''$ East, 5.00 feet to the Northeast corner of said Lot 6; thence South $73^{\circ}53'40''$ West, 133.69 feet along the North line of said Lot 6 to the point of beginning.

Containing 726 square feet, more or less.

8th Street

That part of 8th Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southwest corner of Lot 4 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73° (degrees) $57'$ (minutes) $20''$ (seconds) West, 11.50 feet; thence North $15^{\circ}30'00''$ West, 282.38 feet; thence North $73^{\circ}53'40''$ East, 11.50 feet to the Northwest corner of Lot 6 in said Block A of Commissioners Addition to Fort Des Moines; thence South $15^{\circ}30'00''$ East, 282.39 feet along the West line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Containing 3,247 square feet, more or less.

Locust Street

That part of Locust Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 73° (degrees) $57'$ (minutes) $20''$ (seconds) East, 8.25 feet; thence South $15^{\circ}35'51''$ East, 11.60 feet; thence South $73^{\circ}57'20''$ West, 153.94 feet; thence North $15^{\circ}30'00''$ West, 11.60 feet; thence North $73^{\circ}57'20''$ East, 11.50 feet to the Southwest corner of Lot 4 in said Block A of



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Commissioners Addition to Fort Des Moines; thence North 73°57'20" East, 134.17 feet along the South line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Containing 1,786 square feet, more or less.

Alley

That part of the North-South Alley lying in Block A of Commissioners Addition to Fort Des Moines, an Official Plat, in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 15°(degrees) 35'(minutes) 51"(seconds) West, 142.06 feet along the West line of said North-South Alley in Block A of Commissioners Addition to Fort Des Moines; thence North 74°24'09" East, 8.25 feet; thence South 15°35'51" East, 142.00 feet; thence South 73°57'20" West, 8.25 feet to the point of beginning.

Containing 1,172 square feet, more or less.

3. That the sale and conveyance of a Permanent Easement for Air Space Above City-Owned Property and a Permanent Subsurface Easement for Building Encroachment within such vacated 8th Street, Locust Street, Grand Avenue and alley right-of-way, as described below, to R & T Lofts, L.P. for \$124,000.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

AIR SPACE

8th Street

That part of Vacated 8th Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southwest corner of Lot 4 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 57'(minutes) 20"(seconds) West, 11.50 feet; thence North 15°30'00" West, 282.38 feet; thence North 73°53'40" East, 11.50 feet to the Northwest corner of Lot 6 in said Block A of Commissioners Addition to Fort Des Moines; thence South 15°30'00" East, 282.39 feet along the West line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 3,247 square feet, more or less.

Locust Street

That part of Vacated Locust Street Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:



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Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 16°(degrees) 02'(minutes) 40"(seconds) East, 11.60 feet; thence South 73°57'20" West, 145.78 feet; thence North 15°30'00" West, 11.60 feet; thence North 73°57'20" East, 11.50 feet to the Southwest corner of Lot 4 in said Block A of Commissioners Addition to Fort Des Moines; thence North 73°57'20" East, 134.17 feet along the South line of said Block A of Commissioners Addition to Fort Des Moines to the point of beginning.

Lying between elevations 48.00 and 53.00 feet City of Des Moines Vertical Datum (reference ground elevation of 38.19 feet at building entrance on Locust Street).

Containing 1,690 square feet, more or less.

SUBSURFACE

Grand Avenue

That part of Vacated Grand Avenue Right-of-Way in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Northwest corner of Lot 6 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence South 73°(degrees) 53'(minutes) 40"(seconds) West, 11.50 feet; thence North 15°30'00" West, 5.00 feet; thence North 73°53'40" East, 145.18 feet; thence South 15°35'51" East, 5.00 feet to the Northeast corner of said Lot 6; thence South 73°53'40" West, 133.69 feet along the North line of said Lot 6 to the point of beginning.

Containing 726 square feet, more or less.

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Containing 3,247 square feet, more or less.

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Containing 1,786 square feet, more or less.

Alley

That part of the Vacated North-South Alley lying in Block A of Commissioners Addition to Fort Des Moines, an Official Plat, in the City of Des Moines, Polk County, Iowa, being described as follows:

Beginning at the Southeast corner of Lot 3 in Block A of Commissioners Addition to Fort Des Moines, an Official Plat; thence North 15°(degrees) 35'(minutes) 51"(seconds) West, 142.06 feet along the West line of said North-South Alley in Block A of Commissioners Addition to Fort Des Moines; thence North 74°24'09" East, 8.25 feet; thence South 15°35'51" East, 142.00 feet; thence South 73°57'20" West, 8.25 feet to the point of beginning.

Containing 1,172 square feet, more or less.

4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement for Air Space Above City-Owned Property and the Permanent Subsurface Easement for Building Encroachment 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 and subsurface rights in portions of said 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 Easements, 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 Easements, 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 Easements 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. 16-558)

Moved by Gatto to adopt.

APPROVED AS TO FORM:

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

RJW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY				✓
MOORE	✓			
WESTERGAARD	✓			
TOTAL	6			1

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 Rauh
 City Clerk