



Roll Call Number

17-0105

Agenda Item Number

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Date January 23, 2017

**SET HEARING FOR VACATION OF AIR SPACE, SURFACE AND SUBSURFACE RIGHTS  
IN PORTIONS OF CITY RIGHT-OF-WAY ADJOINING 1400 WALNUT STREET AND  
CONVEYANCE OF PERMANENT EASEMENTS TO 14 WALNUT LLC FOR \$5,724.00,  
AND ACCEPTANCE OF A PERMANENT EASEMENT FOR PUBLIC PEDESTRIAN WAY  
FROM 14 WALNUT LLC VALUED AT \$1,400.00**

**WHEREAS**, 14 Walnut LLC is the owner of the real property locally known as 1400 Walnut Street, Des Moines, Iowa, which property is being developed with a new 5-story mixed-use building with below grade off street parking; and

**WHEREAS**, 14 Walnut LLC has requested the vacation of air space, surface rights and subsurface rights in portions of Walnut Street, 14<sup>th</sup> Street, Falcon Drive and City of Des Moines alley right-of-way all adjoining 1400 Walnut Street, hereinafter more fully described (collectively "City Right-of-Way"), and has further requested that the City of Des Moines, Iowa ("City") convey unto 14 Walnut LLC a Permanent Easement For Air Space Above City-Owned Property, a Permanent Subsurface Easement for Building Encroachment on City-Owned Property, a Permanent Easement for Building Encroachment – Gate Swing, and a Permanent Easement for Building Encroachment – Door Swing in the vacated City Right-of-Way, all adjoining 1400 Walnut Street, hereinafter more fully described, in order to allow for balcony, subsurface building footing and surface door and gate swing encroachments into the City Right-of-Way; and

**WHEREAS**, 14 Walnut LLC has offered to the City the purchase price of \$5,724.00 and conveyance to the City of Des Moines, Iowa of a Permanent Easement for Public Pedestrian Way in a portion of the real property located at 1400 Walnut Street valued at \$1,400.00, hereinafter more fully described, for the purchase of said permanent easements in the vacated City Right-of-Way which prices reflect the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

**WHEREAS**, the City will not be inconvenienced by the proposed vacation and conveyance of said easement interests.

**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, surface rights and subsurface rights in portions of Walnut Street, 14<sup>th</sup> Street, Falcon Drive and City of Des Moines alley right-of-way all adjoining 1400 Walnut Street, more specifically described as follows:

**BUILDING ENCROACHMENT DOOR SWING EASEMENT DESCRIPTION**

AREA "A"

THAT PART OF THE FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO

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LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH  $74^{\circ}16'20''$  WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 59.70 FEET TO THE POINT OF BEGINNING; THENCE SOUTH  $15^{\circ}48'33''$  EAST, 3.49 FEET; THENCE SOUTH  $74^{\circ}11'27''$  WEST, 5.00 FEET; THENCE NORTH  $15^{\circ}48'33''$  WEST, 3.50 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH  $74^{\circ}16'20''$  EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 17 S.F.,

**AREA "B"**

THAT PART OF THE ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH  $15^{\circ}23'36''$  WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY, 36.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH  $74^{\circ}11'27''$  WEST, 1.96 FEET; THENCE NORTH  $15^{\circ}48'33''$  WEST, 5.00 FEET; THENCE NORTH  $74^{\circ}11'27''$  EAST, 2.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY; THENCE SOUTH  $15^{\circ}23'36''$  EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 5.00 FEET TO THE POINT OF BEGINNING AN CONTAINING 10 S.F.,

**AREA "C"**

THAT PART OF THE WALNUT STREET RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET; THENCE SOUTH  $74^{\circ}11'27''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET, 8.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH  $74^{\circ}11'27''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE NORTH  $15^{\circ}48'33''$  WEST, 1.00 FEET; THENCE NORTH  $74^{\circ}11'27''$  EAST, 5.00 FEET; THENCE SOUTH  $15^{\circ}48'33''$  EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F.,

**AREA "D"**

THAT PART OF THE WALNUT STREET RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET; THENCE SOUTH  $74^{\circ}11'27''$  WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET, 37.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING



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SOUTH 74°11'27" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE NORTH 15°48'33" WEST, 1.00 FEET; THENCE NORTH 74°11'27" EAST, 5.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F.

**BUILDING ENCROACHMENT GATE SWING EASEMENT DESCRIPTION**

THAT PART OF THE FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOTS 1 AND 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 58.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 16.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.32 FEET; THENCE SOUTH 74°11'27" WEST, 16.00 FEET; THENCE NORTH 15°48'33" WEST, 4.34 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 S.F.;

**AIR SPACE EASEMENT DESCRIPTION**

**AREA "A"**

ALL OF THE AIR SPACE FOR THAT PART OF THE EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF THE EXISTING 14TH STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF SAID 14TH STREET, 59.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 12.00 FEET; THENCE NORTH 74°11'27" EAST, 2.97 FEET; THENCE SOUTH 15°48'33" EAST, 12.00 FEET; THENCE SOUTH 74°11'27" WEST, 2.96 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 37.69 FEET,

**AREA "B"**

ALL OF THE AIR SPACE FOR THAT PART OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID FALCON DRIVE, 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 12.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.40 FEET; THENCE SOUTH 74°11'27" WEST, 12.00 FEET; THENCE NORTH 15°48'33" WEST, 4.42 FEET TO THE POINT OF BEGINNING AND



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CONTAINING 53 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 42.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 31.60 FEET,

AREA "C"

ALL OF THE AIR SPACE FOR THAT PART OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID FALCON DRIVE, 43.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 12.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.35 FEET; THENCE SOUTH 74°11'27" WEST, 12.00 FEET; THENCE NORTH 15°48'33" WEST, 4.36 FEET TO THE POINT OF BEGINNING AND CONTAINING 52 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 42.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 32.30 FEET,

AREA "D"

ALL OF THE AIR SPACE FOR THAT PART OF THE ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY, 59.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°11'27" WEST, 3.41 FEET; THENCE NORTH 15°48'33" WEST, 12.00 FEET; THENCE NORTH 74°11'27" EAST, 3.50 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY; THENCE SOUTH 15°23'36" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 12.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 41 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 38.00 FEET.

**SUBSURFACE EASEMENT DESCRIPTION**

AREA "A"

THAT PART OF THE SUBSURFACE OF EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF 14TH STREET, 50.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH

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15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 9.00 FEET; THENCE NORTH 74°11'27" EAST, 0.46 FEET; THENCE SOUTH 15°48'33" EAST, 9.00 FEET; THENCE SOUTH 74°11'27" WEST, 0.46 FEET TO THE POINT OF BEGINNING AND CONTAINING 4 S.F.,

**AREA "B"**

THAT PART OF THE SUBSURFACE OF EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF SAID 14TH STREET, 80.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 9.00 FEET; THENCE NORTH 74°11'27" EAST, 0.48 FEET; THENCE SOUTH 15°48'33" EAST, 9.00 FEET; THENCE SOUTH 74°11'27" WEST, 0.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 4 S.F.,

**AREA "C"**

THAT PART OF THE SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH 74°16'20" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 26.81 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°48'33" EAST, 1.32 FEET; THENCE SOUTH 74°11'27" RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 74°16'20" EAST, 8.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 S.F.,

**AREA "D"**

THAT PART OF THE SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39 IN JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 16.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 8.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.50 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 12 S.F.,

**AREA "E"**



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THAT PART OF THE SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39 IN JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 51.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 8.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.32 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 S.F.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described right-of-way, the City of Des Moines further proposes to convey a Permanent Easement For Air Space Above City-Owned Property, a Permanent Subsurface Easement for Building Encroachment on City-Owned Property, a Permanent Easement for Building Encroachment – Gate Swing, and a Permanent Easement for Building Encroachment – Door Swing in the vacated City Right-of-Way, all adjoining 1400 Walnut Street, as legally described as follows, to 14 Walnut LLC, in consideration of \$5,724.00 and conveyance to the City of Des Moines, Iowa of a Permanent Easement for Public Pedestrian Way in a portion of the real property located at 1400 Walnut Street valued at \$1,400.00, all subject to the requirements of the Offer to Purchase and the City Plan and Zoning Commission review:

#### **BUILDING ENCROACHMENT DOOR SWING EASEMENT DESCRIPTION**

##### **AREA "A"**

THAT PART OF THE VACATED FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH 74°16'20" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 59.70 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°48'33" EAST, 3.49 FEET; THENCE SOUTH 74°11'27" WEST, 5.00 FEET; THENCE NORTH 15°48'33" WEST, 3.50 FEET TO SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 74°16'20" EAST, 5.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 17 S.F.,

##### **AREA "B"**

THAT PART OF THE VACATED ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY, 36.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°11'27" WEST, 1.96 FEET;



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THENCE NORTH 15°48'33" WEST, 5.00 FEET; THENCE NORTH 74°11'27" EAST, 2.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY; THENCE SOUTH 15°23'36" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 5.00 FEET TO THE POINT OF BEGINNING AN CONTAINING 10 S.F.,

AREA "C"

THAT PART OF THE VACATED WALNUT STREET RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET; THENCE SOUTH 74°11'27" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET, 8.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°11'27" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE NORTH 15°48'33" WEST, 1.00 FEET; THENCE NORTH 74°11'27" EAST, 5.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F.,

AREA "D"

THAT PART OF THE VACATED WALNUT STREET RIGHT-OF-WAY LYING NORTH OF AND ADJACENT TO LOT 1 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14TH STREET AND THE SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET; THENCE SOUTH 74°11'27" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE OF WALNUT STREET, 37.25 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 74°11'27" WEST ALONG SAID SOUTH RIGHT-OF-WAY LINE, 5.00 FEET; THENCE NORTH 15°48'33" WEST, 1.00 FEET; THENCE NORTH 74°11'27" EAST, 5.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5 S.F.

**BUILDING ENCROACHMENT GATE SWING EASEMENT DESCRIPTION**

THAT PART OF THE VACATED FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOTS 1 AND 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 58.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 16.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.32 FEET; THENCE SOUTH 74°11'27" WEST, 16.00 FEET; THENCE NORTH 15°48'33" WEST, 4.34 FEET TO THE POINT OF BEGINNING AND CONTAINING 69 S.F.;



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#### AIR SPACE EASEMENT DESCRIPTION

##### AREA "A"

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF THE EXISTING 14TH STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF SAID 14TH STREET, 59.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 12.00 FEET; THENCE NORTH 74°11'27" EAST, 2.97 FEET; THENCE SOUTH 15°48'33" EAST, 12.00 FEET; THENCE SOUTH 74°11'27" WEST, 2.96 FEET TO THE POINT OF BEGINNING AND CONTAINING 36 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 37.69 FEET,

##### AREA "B"

ALL OF THE VACATED AIR SPACE FOR THAT PART OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID FALCON DRIVE, 5.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 12.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.40 FEET; THENCE SOUTH 74°11'27" WEST, 12.00 FEET; THENCE NORTH 15°48'33" WEST, 4.42 FEET TO THE POINT OF BEGINNING AND CONTAINING 53 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 42.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 31.60 FEET,

##### AREA "C"

ALL OF THE VACATED AIR SPACE FOR THAT PART OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID FALCON DRIVE, 43.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, 12.00 FEET; THENCE SOUTH 15°48'33" EAST, 4.35 FEET; THENCE SOUTH 74°11'27" WEST, 12.00 FEET; THENCE NORTH 15°48'33" WEST, 4.36 FEET TO THE POINT OF BEGINNING AND CONTAINING 52 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY





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DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 42.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 32.30 FEET,

#### AREA "D"

ALL OF THE VACATED AIR SPACE FOR THAT PART OF THE ALLEY RIGHT-OF-WAY LYING WEST OF AND ADJACENT TO LOT 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY, 59.50 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°11'27" WEST, 3.41 FEET; THENCE NORTH 15°48'33" WEST, 12.00 FEET; THENCE NORTH 74°11'27" EAST, 3.50 FEET TO THE EAST RIGHT-OF-WAY LINE OF SAID ALLEY; THENCE SOUTH 15°23'36" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 12.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 41 S.F. WHICH IS BELOW A PLANE ELEVATION OF 92.55 FEET CITY DATUM AND WHICH IS ABOVE A PLANE ELEVATION OF 56.30 FEET CITY DATUM. THE GROUND ELEVATION WITHIN SAID DESCRIPTION IS APPROXIMATELY 38.00 FEET.

#### SUBSURFACE EASEMENT DESCRIPTION

##### AREA "A"

THAT PART OF THE VACATED SUBSURFACE OF EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF 14TH STREET, 50.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 9.00 FEET; THENCE NORTH 74°11'27" EAST, 0.46 FEET; THENCE SOUTH 15°48'33" EAST, 9.00 FEET; THENCE SOUTH 74°11'27" WEST, 0.46 FEET TO THE POINT OF BEGINNING AND CONTAINING 4 S.F.,

##### AREA "B"

THAT PART OF THE VACATED SUBSURFACE OF EXISTING 14TH STREET RIGHT-OF-WAY LYING ADJACENT TO AND EAST OF THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE OF SAID 14TH STREET, 80.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 15°50'11" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, 9.00 FEET; THENCE NORTH 74°11'27" EAST, 0.48 FEET; THENCE SOUTH 15°48'33" EAST, 9.00 FEET;



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THENCE SOUTH 74°11'27" WEST, 0.47 FEET TO THE POINT OF BEGINNING AND CONTAINING 4 S.F.,

AREA "C"

THAT PART OF THE VACATED SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO THE VACATED 14TH STREET RIGHT-OF-WAY, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF EXISTING 14<sup>TH</sup> STREET AND THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE SOUTH 74°16'20" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 26.81 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 15°48'33" EAST, 1.32 FEET; THENCE SOUTH 74°11'27" RIGHT-OF-WAY LINE OF FALCON DRIVE; THENCE NORTH 74°16'20" EAST, 8.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 S.F.,

AREA "D"

THAT PART OF THE VACATED SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39 IN JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 16.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 8.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.50 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 12 S.F.,

AREA "E"

THAT PART OF THE VACATED SUBSURFACE OF FALCON DRIVE RIGHT-OF-WAY LYING SOUTH OF AND ADJACENT TO LOT 2 IN BLOCK 39 IN JONATHAN LYON'S ADDITION TO FORT DES MOINES, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 51.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 8.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.32 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 11 S.F.

3. That the meeting of the City Council at which the adoption of said ordinance and the conveyance and acceptance of such easement interests is to be considered shall be on February 6, 2017, said



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meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, 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.

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

PSW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GREY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			

MOTION CARRIED

APPROVED

#### 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