

10715



Doc ID: 031954410021 Type: GEN  
Kind: EASEMENT WITH TRANSFER  
Recorded: 06/01/2017 at 12:57:01 PM  
Fee Amt: \$112.00 Page 1 of 21  
Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2016-00099616

BK **16503** PG **436-456**

Prepared by: David DeForest Colvig, Real Estate Coordinator for the City of Des Moines, Seller,  
400 Robert D. Ray Drive, Des Moines, IA 50309-1891 (515) 283-4984

Return to: Real Estate Division, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309-1891

Project Name: Dispositions – No Acquisition Project

Parcel No.: 491

Activity ID: 341111000

### **PERMANENT EASEMENT FOR PUBLIC PEDESTRIAN WAY**

14 Walnut LLC, a Delaware limited liability company (hereinafter referred to as the "Grantor"), in consideration of the sum of One Thousand Four Hundred and 0/100 Dollars (\$1,400.00) receipt of which is hereby acknowledged, does hereby convey unto the City of Des Moines, Iowa, a municipal corporation of the State of Iowa (hereinafter referred to as the "City"), a Permanent Easement for a Public Pedestrian Way over, through and across the following described property:

A PART OF LOTS 1 AND 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, AND A PART OF THE VACATED 14TH STREET RIGHT-OF-WAY, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA AND MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°11'27" EAST ALONG THE NORTH LINE OF SAID LOTS 1 AND 2, A DISTANCE OF 149.42 FEET TO THE WEST RIGHT-OF-WAY LINE OF 14TH STREET; THENCE SOUTH 15°50'11" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 0.16 FEET; THENCE SOUTH 74°08'05" WEST, 149.42 FEET TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG SAID WEST LINE, 0.30 FEET TO THE POINT OF BEGINNING AND CONTAINING 35 S.F.

Which property is also described and depicted on the survey plat attached hereto;

(hereinafter referred to as the "Easement Area") for all activities related to the purpose of the City, reconstructing, repairing, enlarging and maintaining an artificial surface and sidewalk for pedestrians within the Easement Area, together with the full rights of the City and the public, subject to State Laws and City Ordinances, to use said Easement Area for pedestrian ingress and egress.

This Easement shall be subject to the following terms and conditions:

1. **ERECTION OF STRUCTURES PROHIBITED.** Grantor shall not erect any structure, building or fence over or within the Easement Area.
2. **OBSTRUCTIONS PROHIBITED.** Grantor shall not erect or cause to be placed on the Easement Area any structure, material, device, thing, or matter which could possibly obstruct or impede the usage of the Easement Area by pedestrians or bicycles.
3. **MAINTENANCE OF EASEMENT.** Grantor shall keep and preserve all portions of the Easement Area in good repair and condition at all times, and shall not plant nor permit to grow and trees or other vegetative growth which might reasonably be expected to obstruct or impair usage of the Easement Area.
4. **CHANGE OF GRADE PROHIBITED.** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer.
5. **RIGHT OF ACCESS.** The general public, and the City, its agents, contractors, employees and assigns shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area. This Easement allows the City, its agents, contractors, employees and assigns the right to enter in, upon and onto the Easement Area at any time to perform any and all activities related to or necessary for the reconstruction, repair, enlargement or maintenance of the public pedestrian way, including but not limited to the following activities: (1) grading and excavation; (2) hauling, transporting and storage of materials and equipment; (3) removal of any unauthorized plantings or structures placed or erected within the Easement Area; (4) trimming and/or removal of trees, shrubs, and landscaping within or encroaching upon the Easement Area; and (5) utility work including but not limited to relocation, placement and removal of various utility facilities such as electric poles and wires, water lines, sewer lines and natural gas facilities that are within or encroaching upon the Easement Area. This right of access shall begin on the date that Grantor executes this document.
6. **EASEMENT RUNS WITH LAND.** This Easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

7. **APPROVAL BY CITY COUNCIL.** This Easement shall not be binding until it has received final approval and acceptance by the Des Moines City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

8. **SPECIAL PROVISIONS.** None.

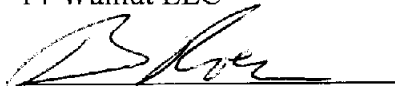
Grantor does hereby covenant with the City that Grantor holds said real estate described in this Easement by title in Fee Simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

Words and phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Signed this 9<sup>th</sup> day of February, 2017.

14 Walnut LLC




Brian Roers, Manager

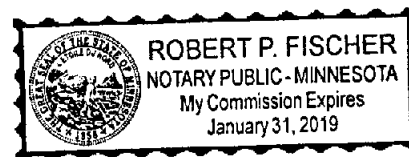
STATE OF Minnesota )

) ss:

COUNTY OF Hennepin )

On this 9 day of February, 2017, before me, the undersigned, a Notary Public in the State of Minnesota, personally appeared Brian Roers, who, being by me duly sworn did state that he is a Manager of 14 Walnut LLC, a manager-managed Delaware limited liability company; that the foregoing instrument was signed on behalf of the company; and that he, as a manager, acknowledged the execution of the instrument to be the voluntary act and deed of the company.

  
Notary Public in the State of Minnesota



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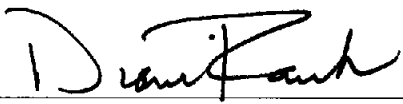
ACCEPTANCE BY THE CITY OF DES MOINES, IOWA

APPROVED AS TO FORM:

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

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of Des Moines by Resolution and Roll Call No. 17-0218, passed on the 6<sup>TH</sup> day of February, 20 17, and this certificate is made pursuant to authority contained in said Resolution.

Signed this 6<sup>TH</sup> day of February, 20 17.

  
\_\_\_\_\_  
Diane Rauh  
City Clerk of the City of Des Moines, Iowa

**INDEX LEGEND**

SURVEYOR'S NAME:  
 ERIN D. GRIFFIN  
 SNYDER & ASSOCIATES, INC.  
 2727 SW SNYDER BOULEVARD  
 ANKENY, IOWA 50023  
 515-964-2020  
 EGRIFFIN@SNYDER-ASSOCIATES.COM

SERVICE PROVIDED FOR:  
 ROERS INVESTMENTS

SURVEY LOCATED:  
 PT. LOTS 1 & 2,  
 BLOCK 39, LYON'S ADDITION  
 SECTION 09-78N-24W

REQUESTED BY:  
 ROERS INVESTMENTS

RETURN TO:  
 ERIN D. GRIFFIN  
 SNYDER & ASSOCIATES, INC.  
 2727 SW SNYDER BOULEVARD  
 ANKENY, IOWA 50023

**PLAT OF SURVEY**

OF PERMANENT EASEMENT BEING  
 CONVEYED TO THE CITY OF DES MOINES

**PUBLIC SIDEWALK EASEMENT DESCRIPTION**

A PART OF LOTS 1 AND 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, AND A PART OF THE VACATED 14TH STREET RIGHT-OF-WAY, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA AND MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°11'27" EAST ALONG THE NORTH LINE OF SAID LOTS 1 AND 2, A DISTANCE OF 149.42 FEET TO THE WEST RIGHT-OF-WAY LINE OF 14TH STREET; THENCE SOUTH 15°50'11" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 0.16 FEET; THENCE SOUTH 74°08'05" WEST, 149.42 FEET TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG SAID WEST LINE, 0.30 FEET TO THE POINT OF BEGINNING AND CONTAINING 35 S.F.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

**DATE OF SURVEY**

MAY 24, 2015

**OWNER**

GIFFORD & BROWN INC.

**LEGEND**

Survey	Found	Set
Section Corner	▲	△
1/2" Rebar, Yellow Plastic Cap #19710 (Unless Otherwise Noted)	●	○
ROW Marker	■	□
ROW Rail	—	—
Calculated Point	+	
Platted Distance	P	
Measured Bearing & Distance	M	
Recorded As	R	
Deed Distance	D	
Calculated Distance	C	
Centerline	---	
Section Line	---	
1/4 Section Line	---	
1/4 1/4 Section Line	---	
Easement Line	---	

*ETS 12-15-16*



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

*E.D. Griffin* 12/14/16  
 Erin D. Griffin, PLS Date

License Number 19710  
 My License Renewal Date is December 31, 2017

Pages or sheets covered by this seal:  
 Sheets 1 and 2 of 2

**1400 WALNUT STREET**

**PUBLIC SIDEWALK EASEMENT**



**SNYDER & ASSOCIATES, INC.**  
 Engineers and Planners

2727 S.W. SNYDER BLVD.  
 ANKENY, IA 50023 (515) 964-2020

SHEET 1 OF 2

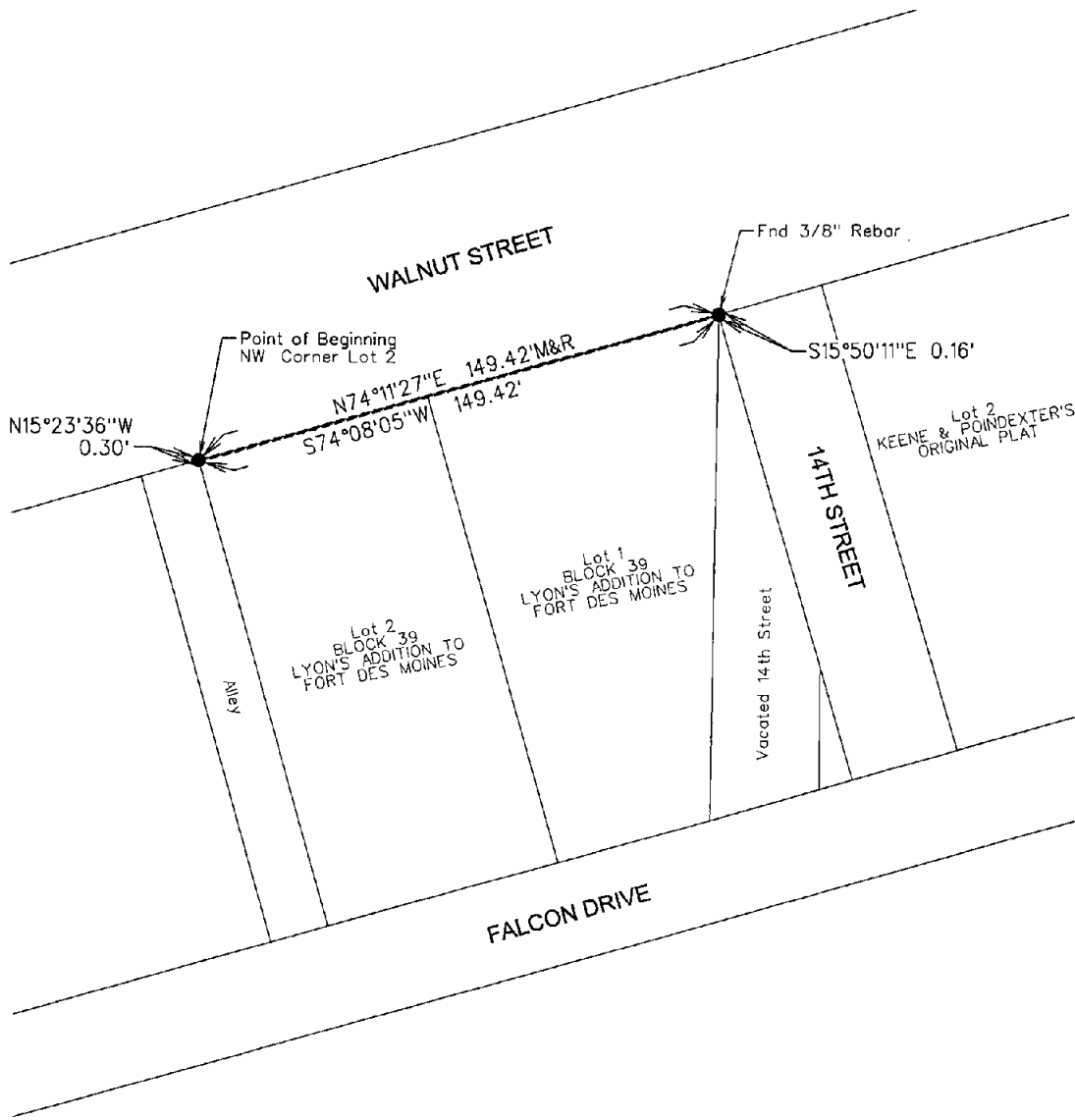
PN: 116.0476

FIELD BK 987B PG 67

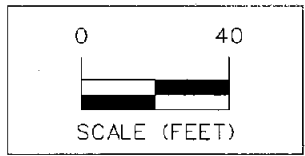
DATE 10/12/16

PM/TECH EDG/SGK

**PLAT OF SURVEY**  
 OF PERMANENT EASEMENT BEING  
 CONVEYED TO THE CITY OF DES MOINES



*EJS 12-15-16*



<b>1400 WALNUT STREET</b>	SHEET 2 OF 2
	PN: 116.0476
<b>PUBLIC SIDEWALK EASEMENT</b>	FIELD BK 987B PG 67
	DATE 10/12/16
	PMTECH EDG/SGK



**SNYDER & ASSOCIATES, INC.**  
 Engineers and Planners

2727 S.W. SNYDER BLVD.  
 ANKENY, IA 50023 (515) 964-2020



**Roll Call Number**

17-0218

**Date** February 6, 2017

I, Laura Baumgartner, Chief Deputy City Clerk of the City of Des Moines, Iowa, do hereby certify that this is a true and correct copy of the original paper(s) filed in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal on this 21<sup>st</sup> day of February 2017.  
*Laura Baumgartner*  
Chief Deputy City Clerk

**Agenda Item Number**

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Page 1

**HOLD 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; and

**WHEREAS**, on January 23, 2017, by Roll Call No. 17-0105, 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 February 6, 2017, at 5:00 p.m., in the Council Chamber; and

**WHEREAS**, due notice of said proposal to vacate air space, surface rights and subsurface rights in portions of said City Right-of-Way and 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 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



Date February 6, 2017

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, surface, 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, surface rights and subsurface rights in portions of Walnut Street, 14th 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 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 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; 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 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





Date February 6, 2017

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 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 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;



Date February 6, 2017

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 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



17-0218

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Date February 6, 2017

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 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"**



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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, 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 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 sale and conveyance of 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 within such vacated Walnut Street, 14<sup>th</sup> Street, Falcon Drive and City of Des Moines alley right-of-way all adjoining 1400 Walnut Street, as described below, to 14 Walnut LLC in consideration of \$5,724.00 and conveyance to the City of a Permanent Easement for Public Pedestrian Way, and acceptance from 14 Walnut LLC of a Permanent Easement for Public Pedestrian Way in a portion of the real property located at 1400 Walnut Street, together with payment by 14 Walnut LLC of the estimated publication and recording costs for this transaction, subject to the requirements of the Offer to Purchase and the City Plan and Zoning Commission review, be and is hereby approved:

**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



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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; 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.



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**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.;

**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,



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**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 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.,



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**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; 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





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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.,

**PERMANENT EASEMENT FOR PUBLIC PEDESTRIAN WAY DESCRIPTION:**

A PART OF LOTS 1 AND 2 IN BLOCK 39, JONATHAN LYON'S ADDITION TO FORT DES MOINES, AND A PART OF THE VACATED 14TH STREET RIGHT-OF-WAY, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, IOWA AND MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 74°11'27" EAST ALONG THE NORTH LINE OF SAID LOTS 1 AND 2, A DISTANCE OF 149.42 FEET TO THE WEST RIGHT-OF-WAY LINE OF 14TH STREET; THENCE SOUTH 15°50'11" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, 0.16 FEET; THENCE SOUTH 74°08'05" WEST, 149.42 FEET TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 15°23'36" WEST ALONG SAID WEST LINE, 0.30 FEET TO THE POINT OF BEGINNING AND CONTAINING 35 S.F. PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD

4. The Mayor is authorized and directed to sign the Offer to Purchase, the Permanent Easement For Air Space Above City-Owned Property, the Permanent Subsurface Easement for Building Encroachment on City-Owned Property, the Permanent Easement for Building Encroachment – Gate Swing, the Permanent Easement for Building Encroachment – Door Swing for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. The City Clerk is hereby authorized and directed to endorse upon the Permanent Easement for Public Pedestrian Way the approval and acceptance of this Council; and is further authorized and directed to deliver all the aforementioned documents to the Real Estate Division Manager, who shall proceed to closing in accordance with standard real estate practices.

6. Upon final passage of an ordinance vacating said air space, surface rights and subsurface rights in portions of said City 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.

7. 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.

8. 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.



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9. Non-project related land sale proceeds are used to support general operating budget expenses: Org - EG064090.

(Council Communication No. 17-054)

Moved by Hensley to adopt.

APPROVED AS TO FORM:

Lisa A. Wieland, Assistant City Attorney

RTH

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



REGISTER MEDIA  
A GANNETT COMPANY

# AFFIDAVIT OF PUBLICATION

4  
17.0218

I, Laura Baumgartner, Chief Deputy City Clerk of the City of Des Moines, Iowa, do hereby certify that this is a true and correct copy of the original paper(s) filed in my office. IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal on this 31<sup>st</sup> day of March, 2017.  
*Laura Baumgartner*  
Chief Deputy City Clerk

State of Iowa

County of Polk, ss.:

The undersigned, being first duly sworn on oath, states that The Des Moines Register and Tribune Company, a corporation duly organized and existing under the laws of the State of Iowa, with its principal place of business in Des Moines, Iowa, the publisher of

## THE DES MOINES REGISTER

newspaper of general circulation printed and published in the City of Des Moines, Polk County, Iowa, and that an advertisement, a printed copy of which is attached as Exhibit "A" and made part of this affidavit, was printed and published in The Des Moines Register on the following dates:

Ad No.	Start Date:	Run Dates:	Cost:
0001876297	1/26/17	01/26/17	\$284.67

### Copy of Advertisement

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" WEST, 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

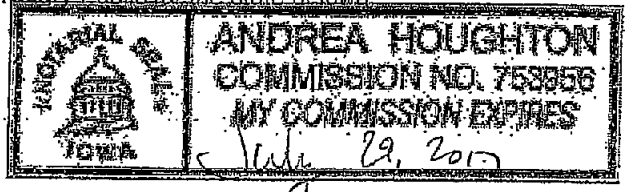
OF SAID LOT 2; THENCE NORTH 74°16'20" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 16.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 74°16'20" EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF FALCON DRIVE, 8.00 FEET; THENCE SOUTH 15°48'33" EAST, 1.50 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 12.5 S.F. AREA "E" 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, 5.75 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, 1.37 FEET; THENCE SOUTH 74°11'27" WEST, 8.00 FEET; THENCE NORTH 15°48'33" WEST, 1.38 FEET TO THE POINT OF BEGINNING AND CONTAINING 11.5 S.F. NOTICE IS FURTHER GIVEN, that the City Council of the City of Des Moines, Iowa, has adopted a resolution setting a hearing relating to a proposal that if the City Council first decides to vacate said air space, surface, and subsurface rights within the above-described right-of-way, then 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, within such vacated right-of-way to 14 Walnut LLC in consideration of \$5,724.00 and conveyance of a Permanent Easement for Public Pedestrian Way over the following described property:  
A PART OF LOTS 1 AND 2 IN

*[Signature]*  
Staff member, Register Media

Subscribed and sworn to before me by said affiant this

26th day of January, 2017.

*[Signature]*  
Notary Public for the state of Iowa



DD9872; #284.67



*Please Deposit*

REAL ESTATE DIVISION  
Engineering Department

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Interoffice Memorandum

TO: Russ Dempster  
Treasurer's Office

DATE: February 22, 2017

FROM: Phillip J. Wageman  
Real Estate Division Manager

SUBJECT: Deposit - Disposition  
Vicinity of 1400 Walnut  
Street Parcel 491

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Attached is check 3006 in the amount of \$5,724.00 from 14 Walnut LLC for the purchase of ~~property~~ *easement* in the vicinity of 1400 Walnut Street.

Credit the following account (Dispositions):

Organization: EG064090

Project:

Object: 496022

Activity ID:

Roll Call #: 17-0218

Proceeds

Thank you in advance for your assistance! Call Teresa at x4838 if you have any questions.

PJW:TB

Attachment

CC: David DeForest Colvig/file

*OK  
Teresa*