

192



Doc ID: 031954440026 Type: GEN  
Kind: EASEMENT  
Recorded: 06/01/2017 at 01:00:26 PM  
Fee Amt: \$132.00 Page 1 of 26  
Revenue Tax: \$0.00  
Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2016-00099619

BK **16503** PG **509-534**

Prepared by: David DeForest Colvig, Real Estate Coordinator, City of Des Moines, (515) 283-4984  
Return to: Real Estate Division, City of Des Moines, 400 Robert D. Ray Drive, Des Moines, IA 50309-1891  
Taxpayer: 14 Walnut LLC, 1964 West Wayzata Blvd, Suite 200, Long Lake, MN 55356  
Title of Document: Permanent Easement for Building Encroachment  
Grantor's Name: City of Des Moines, Iowa  
Grantee's Name: 14 Walnut LLC  
Legal Description: See below on this page.

Project: Disposition - No Acquisition Project Parcel No.: 491 Activity ID: 341111000

**PERMANENT EASEMENT FOR AIR SPACE  
ABOVE CITY-OWNED PROPERTY**

The **CITY OF DES MOINES, IOWA**, a municipal corporation of the County of Polk, the State of Iowa (hereinafter referred to as the "City"), in consideration of the sum of Two Thousand Five Hundred Forty-Eight and no/100 Dollars (\$2,548.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby convey unto 14 Walnut LLC, a Delaware limited liability company (hereinafter referred to as the "Grantee"), a **Permanent Easement for Air Space Above City-Owned Property** (hereinafter referred to as the "Easement") over, through and across the following described real property:

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 "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.

(VACATED BY ORDINANCE NO. 15,557, PASSED February 6 2017.)

(hereinafter referred to as the "Easement Area") for the sole purpose of constructing and maintaining a total of four balconies as part of the Walnut Apartments project located at 1400 Walnut Street, Des Moines, Iowa, (hereinafter referred to as the "Benefited Property").

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

1. **CITY REVIEW AND APPROVAL: CONSTRUCTION REQUIREMENTS.** The location, design and proposed manner of construction of any structures or facilities to be placed within the Easement Area under authority of this Easement shall be subject to review and approval by the City. Construction within the Easement Area shall comply with the following requirements: Any overhang elements shall generally be in accordance with the submitted building elevations and site sketch.
2. **SURFACE RIGHTS EXCLUDED.** Nothing in this Easement provides Grantee any right to use, alter, or impact the surface or above-surface improvements below the Easement Area, and said surface and above-surface improvements are excluded from the Easement and Easement Area and remain dedicated City right-of-way subject to pedestrian and/or vehicular access by the City and the public, and subject to all pertinent local, state and federal laws and regulations.
3. **MAINTENANCE OF AND LIABILITY FOR EASEMENT AREA.** The Grantee shall be solely responsible for all activities related to and costs of maintenance of the Easement Area and construction, use, maintenance and repair of the improvements, in accordance with City ordinance, policies and regulations, and State and federal law. Grantee shall maintain the Easement Area in a safe condition and in a manner so as not to physically conflict or electronically interfere with the facilities of the City, and so as not to conflict or interfere with pedestrian or vehicular use of City right-of-way below the Easement Area.
4. **EASEMENT RUNS WITH LAND.** Except as otherwise provided herein, this Easement shall be deemed to run with the land for the benefit of the Benefited Property, and shall remain binding on the City and the City's successors and assigns and on Grantee and Grantee's successors and assigns for its duration. For purposes of this Easement and enforcement thereof, the term "Grantee" shall include Grantee's successors and assigns unless otherwise specified. The use of the Easement Area by Grantee, its successors and assigns, for the installation, operation, maintenance or repair of the improvements shall constitute acceptance of the provisions and of the obligations of Grantee as set forth in this Easement.
5. **DURATION AND REMOVAL OF IMPROVEMENTS UPON TERMINATION.** This Easement shall remain in full force and effect for the life of the building now existing upon the Benefited Property, or for the life of Grantee's use of the Easement Area for operation and maintenance of the improvements, whichever is shorter in duration. In the event that the building upon the Benefited Property is ever destroyed by any means whatsoever, to such a degree that the estimated cost of the repairs necessary to restore the building to its condition prior to such destruction exceed 60% of the replacement value of the building prior to such destruction, then this Easement shall automatically terminate with or without recorded release.

Grantee shall have ninety (90) days from the termination of this Easement to remove the improvements from the Easement Area and to commence restoration thereof. If Grantee fails to remove the improvements as provided herein, they shall be deemed abandoned and the City may remove part of or all of the improvements at Grantee's, or its successors or assigns, cost, at City's sole discretion.

6. **INDEMNIFICATION AND HOLD HARMLESS.** The City shall incur no expense related to Grantee's and Grantee's successors and assigns' exercise of the rights hereby granted. Grantee and Grantee's successors and assigns in ownership of the Benefited Property agree (a) to indemnify, defend, pay on behalf of and hold harmless the City, its elected and appointed officials, employees and volunteers and others working on behalf of the City, as more

particularly provided in Attachment 1 hereto, which obligation shall include payments made under workers' compensation laws and shall also include the obligation to pay all reasonable expenses incurred by the City in defending itself with regard to any of the claims listed in Attachment 1, including all out-of-pocket expenses incurred by the City in defending itself, such as attorney's fees, expert witness fees, and the value of any services rendered by the Legal Department of the City or any other officers or employees of the City, and (b) to obtain and maintain in continuous effect during the term of this Easement, the insurance coverage set forth in Attachment 1 hereto.

- 7. **ENFORCEMENT OF EASEMENT TERMS.** The terms and obligations set forth in this Easement are enforceable by the City by any and all legally available options, including but not limited to specific performance, injunctive relief, and assessment of costs. This Easement shall be governed by, construed and enforced in accordance with the laws of the State of Iowa, and Grantee agrees to pay and discharge all costs and fees, including fees for services rendered by the City Legal Department, attorneys, officers, employees, or agents, or any expense that shall arise from enforcing any of the terms of this Easement.
- 8. **ACCEPTANCE.** This Permanent Easement for Air Space Above City-Owned Property shall be of no force or effect unless accepted by Grantee by execution of the Acceptance below.

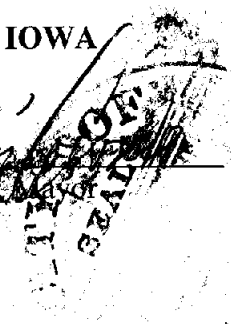
Signed this 6<sup>th</sup> day of February, 2017

ATTEST

By: *Diane Rauh*  
Diane Rauh, City Clerk

CITY OF DES MOINES, IOWA

By: *T.M. Franklin*  
T.M. Franklin Cownie, Mayor

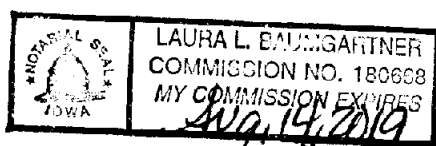


APPROVED AS TO FORM

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

STATE OF IOWA    )  
                                ) ss:  
COUNTY OF POLK    )

On this 6<sup>th</sup> day of February 2017, before me, the undersigned, a Notary Public, personally appeared T. M. Franklin Cownie and Diane Rauh, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution and Roll Call No. 17- 0218 adopted by the City Council on the 6<sup>th</sup> day of February 2017, and that T. M. Franklin Cownie and Diane Rauh acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.



*Laura L Baumgartner*  
Notary Public in the State of Iowa

**ACCEPTANCE BY GRANTEE**

The undersigned hereby accepts this Permanent Easement for Air Space Above City-Owned Property and agrees to be bound by the terms set forth above.

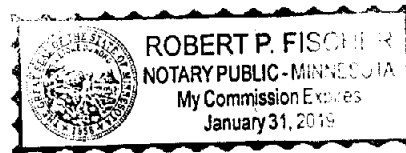
14 Walnut LLC

B. Roers  
Brian Roers, Manager

STATE OF Minnesota )  
) ss:  
COUNTY OF Hennepin )

On this 22 day of May, 2017, before me, the undersigned, a Notary Public in the State of MN, 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.

Robert P. Fischer  
Notary Public in the State of ~~Iowa~~ MN



## ATTACHMENT A

### CITY STANDARD EASEMENT – MAJOR

#### INSURANCE & INDEMNIFICATION REQUIREMENTS

##### 1. GENERAL

The GRANTEE shall purchase and maintain insurance to protect the GRANTEE and CITY throughout the duration of the Agreement to which these Requirements are attached (hereinafter “Agreement”). Said insurance shall be provided by an insurance company(ies), “admitted” and “nonadmitted” to do business in the State of Iowa, having no less than an A. M. Best Rating of “B+.” All policies shall be written on a per occurrence basis, not a claims-made basis, and in form and amounts and with companies satisfactory to the CITY. Certificates of Insurance confirming adequate insurance coverage shall be submitted to the CITY prior to Agreement execution or commencement of GRANTEE’S use or occupancy of City property including that of GRANTEE’S officers, agents, employees, contractors, subcontractors and any other party working for, through, or on behalf of GRANTEE.

The City of Des Moines, Iowa hereby reserves the right to revise and enforce the requirements in this Attachment over the term of this Agreement but only after providing GRANTEE at least sixty (60) days advance written notification of any such change

##### 2. INSURANCE REQUIREMENTS

A. WORKER’S COMPENSATION & EMPLOYER’S LIABILITY INSURANCE: The GRANTEE shall procure and maintain Worker’s Compensation Insurance, including Employer’s Liability Coverage, both written with State of Iowa statutory limits. *Waiver of Subrogation in favor of the CITY is required.*

B. COMMERCIAL GENERAL LIABILITY INSURANCE: The GRANTEE shall procure and maintain Commercial General Liability insurance on an occurrence basis with limits of liability not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit covering Personal Injury, Bodily Injury and Property Damage. Coverage shall include: (a) Contractual Liability, (b) Premises and Operations, (c) Products and Completed Operations, (d) Independent Contractors Coverage, (e) Personal and Advertising Injury and (f) Explosion, Collapse and Underground – XCU (when applicable). *Waiver of Subrogation in favor of the CITY is required.*

Coverage shall be no less comprehensive and no more restrictive than the coverage provided by a standard form Commercial General Liability Policy (ISO CG 0001 including standard exclusions or a non-ISO equivalent form).

C. UMBRELLA/EXCESS LIABILITY INSURANCE: The Liability Insurance requirements above may be satisfied with a combination of primary and Umbrella or Excess Liability Insurance. If the Umbrella or Excess Insurance policy does not follow the form of the primary policies, it shall include the same endorsements as required of the primary policies. *Waiver of Subrogation in favor of the CITY is required.*

- D. ADDITIONAL INSURED ENDORSEMENT: The General Liability Insurance policy shall include standard ISO endorsements CG 20 26 07 04 and CG 20 37 07 04 or their non-ISO equivalents. GRANTEE'S insurance shall be primary to that of the City and noncontributory to any other insurance or similar coverage available to the CITY whether the other available coverage is primary, contributing or excess.
- E. GOVERNMENTAL IMMUNITY ENDORSEMENT: The General Liability Insurance policy shall include the CITY Governmental Immunities Endorsement language as provided below. Standard ISO or insurance carrier "Waiver of Immunity" endorsements are not acceptable.

**CITY OF DES MOINES, IOWA  
GOVERNMENTAL IMMUNITIES ENDORSEMENT**

1. Nonwaiver of Government Immunity. The insurance carrier expressly agrees and states that the purchase of this policy and the including of the City of Des Moines, Iowa as Additional Insured does not waive any of the defenses of governmental immunity available to the City of Des Moines, Iowa under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
2. Claims Coverage. The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.
3. Assertion of Government Immunity. The City of Des Moines, Iowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the City of Des Moines, Iowa.
4. Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the City of Des Moines, Iowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Des Moines, Iowa.
5. No Other Change in Policy. The insurance carrier and the City of Des Moines, Iowa agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

- F. CANCELLATION & NONRENEWAL NOTIFICATION ENDORSEMENT: The General Liability Insurance policy shall be endorsed to provide the CITY with no less than thirty (30) days Advance Written Notice of Cancellation, forty-five (45) days Advance Written Notification for Nonrenewal and ten (10) days Written Notification of Cancellation due to non-payment of premium. *Written notifications shall be sent to: City of Des Moines, Real Estate Division, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.*

G. WAIVER OF SUBROGATION: To the fullest extent permitted by law, GRANTEE hereby releases the CITY, including its elected and appointed officials, agents, employees and volunteers and others working on its behalf from and against any and all liability or responsibility to the GRANTEE or anyone claiming through or under the GRANTEE by way of subrogation or otherwise, for any loss without regard to the fault of the CITY or the type of loss involved, including loss due to occupational injury. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. The GRANTEE'S policies of insurance shall contain either a policy provision or endorsement affirming the above stated release in favor of the CITY including its elected and appointed officials, agents, employees and volunteers, and others working on its behalf.

H. PROOF OF INSURANCE: The GRANTEE shall provide to the CITY a Certificate(s) of Insurance evidencing all required insurance coverage as provided in paragraphs A through H above utilizing the latest version of the ACORD form. The Certificate(s) of Insurance shall specify the title of the Agreement under "Description of Operations/Locations/Vehicle/Special Items". Copies of compliant Additional Insured, Governmental Immunities, and Cancellation and Material Change endorsements shall be submitted with the Certificate(s) of Insurance so as to evidence their inclusion in the coverages required. *Mail Certificate of Insurance to: City of Des Moines, Real Estate Division, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa 50309.*

I. AGENTS, CONTRACTORS AND SUBCONTRACTORS: The GRANTEE shall require that any of its agents, contractors and subcontractors who perform work and/or services on behalf of the GRANTEE purchase and maintain the types of insurance customary to the services provided.

J. RESPONSIBILITY FOR THE PROPERTY OF OTHERS – GRANTEE shall assume full responsibility for all loss or damage from any cause whatsoever to any property brought onto City property that is owned or rented by GRANTEE, or any of GRANTEE'S employees, agents, contractors, subcontractors or any other party working for, through, or on behalf of GRANTEE.

### 3. INDEMNIFICATION REQUIREMENTS

For purposes of this Section 3, the term "CITY" means the City of Des Moines, Iowa and its elected and appointed officials, agents, employees and volunteers, and others working on its behalf. To the fullest extent permitted by law, GRANTEE agrees to defend, pay on behalf of, indemnify, and hold harmless the CITY against any and all claims, demands, suits, damages or losses, together with any and all outlay and expense connected therewith, including, but not limited to, attorneys' fees and court costs, that may be asserted or claimed against, recovered from or suffered by the CITY by reason of any injury or loss, including, but not limited to, personal injury, bodily injury including death, property damage including loss of use thereof, and economic damages that arise out of or are in any way connected or associated with the Agreement and/or GRANTEE'S use or occupancy of City property including that of GRANTEE'S officers, agents, employees, contractors, subcontractors and others under the control of GRANTEE.

GRANTEE's obligation to indemnify the CITY contained in this Agreement is not limited by the amount or type of damages, compensation or benefits payable under any workers' compensation acts, disability benefit acts, or other employee benefits acts.



The CITY shall not be liable or in any way responsible for any injury, damage, liability, claim, loss or expense incurred by GRANTEE arising out of or in any way connected or associated with the Agreement and/or GRANTEE's use or occupancy of City property including that of GRANTEE'S officers, agents, employees, contractors, subcontractors and others under the control of GRANTEE, except to the extent caused by or resulting from the negligence of the CITY.

GRANTEE expressly assumes responsibility for any and all damage caused to CITY property arising out of or in any way connected or associated with the Agreement and/or GRANTEE'S use or occupancy of City Property including that of GRANTEE'S officers, agents, employees, contractors, subcontractors and others under the control of GRANTEE .

GRANTEE shall ensure that its activities on CITY property will be performed and supervised by adequately trained and qualified personnel, and GRANTEE will observe all applicable safety rules.

# 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 BY THE CITY OF DES MOINES

### AIR RIGHTS EASEMENT DESCRIPTION

#### AREA "A"

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### DATE OF SURVEY

MAY 24, 2015

### OWNER

CITY OF DES MOINES

### LEGEND

Survey	Found	Set
Section Corner	▲	△
5/8" Rebar, Yellow Plastic Cap #13146	●	○
1/2" Rebar, Yellow Plastic Cap #19710 (Unless Otherwise Noted)	■	□
ROW Marker	■	□
ROW Roll	■	□
Calculated Point	+	+
Platted Distance	P	P
Measured Bearing & Distance	M	M
Recorded As	R	R
Deed Distance	D	D
Calculated Distance	C	C
Centerline	---	---
Section Line	---	---
1/4 Section Line	---	---
1/4 1/4 Section Line	---	---
Easement Line	---	---

Revised 12-21-16 As per Architectural Changes *EPS 12/29/16*



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.

*Erin D. Griffin* 12-23-16  
 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 to 3 of 3

## 1400 WALNUT STREET

## AIR RIGHTS EASEMENT



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

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

SHEET 1 OF 3

PN: 116.0476

FIELD BK 987B PG 67

DATE 10/12/16

PM/TECH EDG/SGK

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

**AIR RIGHTS EASEMENT DESCRIPTION**

AREA "C"

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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.

PROPERTY SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

*EES 12/29/16*

**1400 WALNUT STREET**

**AIR RIGHTS EASEMENT**

SHEET 2 OF 3

PN: 116.0476

FIELD BK 987B PG 67

DATE 10/12/16

PWTECH EDG/SGK

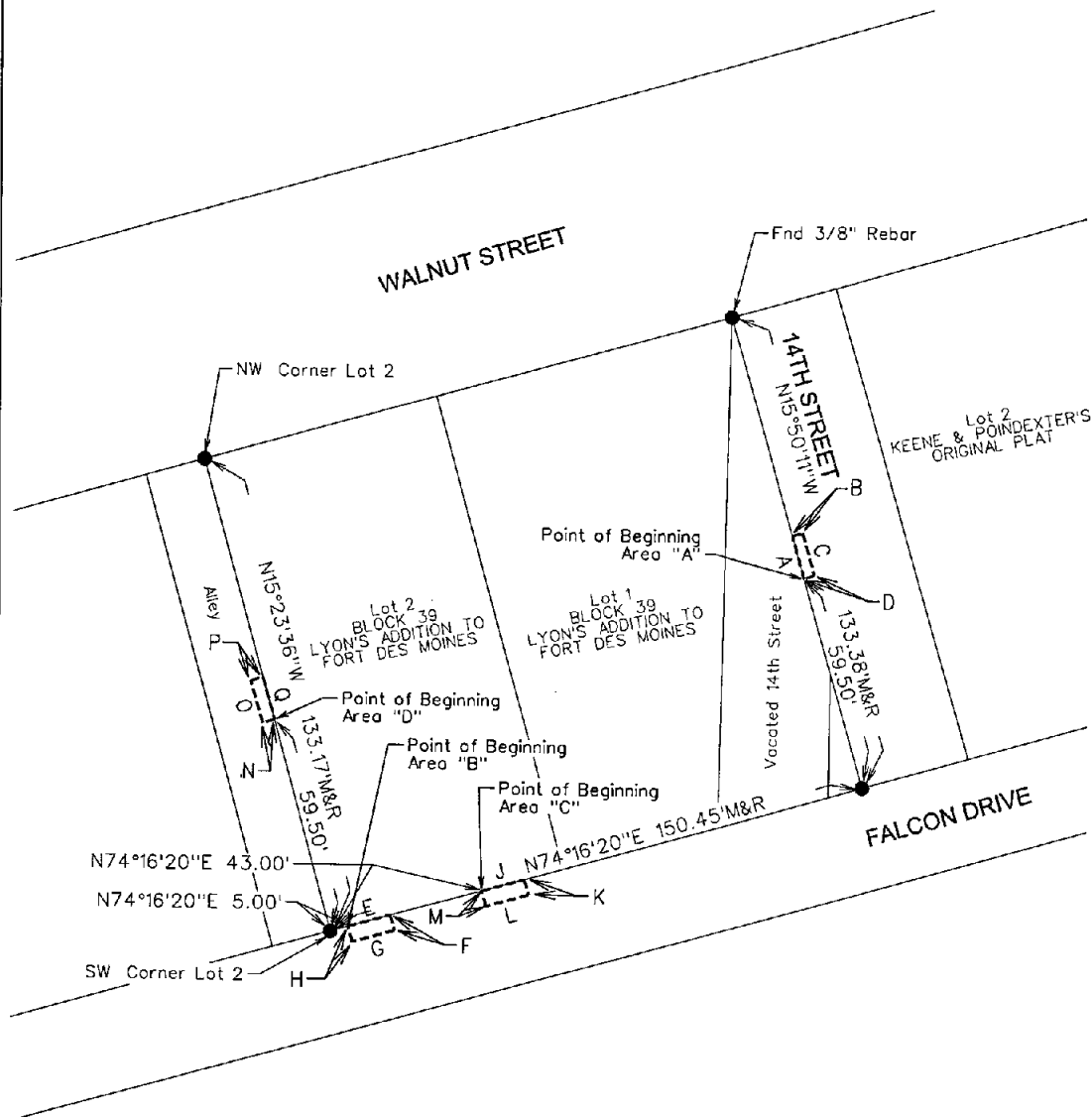


**SNYDER & ASSOCIATES, INC.**  
 Engineers and Planners

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

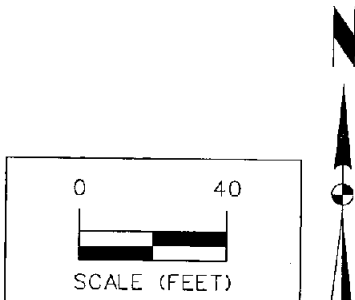
# PLAT OF SURVEY

## OF PERMANENT EASEMENT BEING CONVEYED BY THE CITY OF DES MOINES



### LINE TABLE

A	N15°50'11"W	12.00'	N	S74°11'27"W	3.41'
B	N74°11'27"E	2.97'	O	N15°48'33"W	12.00'
C	S15°48'33"E	12.00'	P	N74°11'27"E	3.50'
D	S74°11'27"W	2.96'	Q	S15°23'36"E	12.00'
E	N74°16'20"E	12.00'			
F	S15°48'33"E	4.40'			
G	S74°11'27"W	12.00'			
H	N15°48'33"W	4.42'			
J	N74°16'20"E	12.00'			
K	S15°48'33"E	4.35'			
L	S74°11'27"W	12.00'			
M	N15°48'33"W	4.36'			



*ETS 12/29/16*

**1400 WALNUT STREET**  
**AIR RIGHTS EASEMENT**

SHEET	3 OF 3
PN:	116.0476
FIELD BK	987B PG 67
DATE	10/12/16
PM/TECH	EDG/SGK

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

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

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 06 day of March 2017  
*Laura Baumgartner*  
Chief Deputy City Clerk

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Date February 6, 2017

**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

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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, 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 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

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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;

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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



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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 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 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 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, 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 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, 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  
Lisa A. Wieland, Assistant City Attorney

RW

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MOORE	✓			
WESTERGAARD	✓			
TOTAL	7			
MOTION CARRIED				

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





# AFFIDAVIT OF PUBLICATION

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°16'20" 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 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 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.


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, that 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:

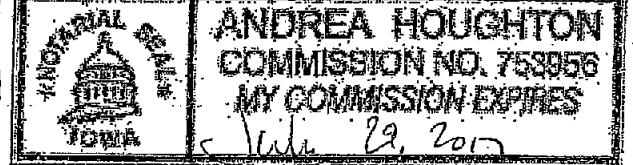
A PART OF LOTS 1 AND 2 IN

  
Staff member, Register Media

Subscribed and sworn to before me by said affiant this

26th day of January, 2017


  
Notary Public for the state of Iowa



PD9872; #284.67

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 25 day of March, 2017.

  
Laura Baumgartner  
Chief Deputy City Clerk

