

Date June 9, 2008

**SET HEARING FOR VACATION AND CONVEYANCE OF AN AIR SPACE EASEMENT
ADJOINING 305 EAST 5th STREET TO E5W, LLC FOR \$240**

WHEREAS, on May 5, 2008, by Roll Call No. 08-784, the City Council adopted a recommendation from the City Plan and Zoning Commission to vacate and convey an air space easement, hereinafter more fully described, to allow for encroachment of extension balconies at 305 East 5th Street; and

WHEREAS, the grantee identified below is the owner of property abutting such right-of-way and has offered to the City of Des Moines the purchase price identified below for the vacation and purchase of the air space easement described below.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. That the City Council of the City of Des Moines shall consider adoption of an ordinance permanently vacating an air space easement adjoining 305 East 5th Street, more specifically described as follows:

West Balcony

All of the Air Space for part of East 5th Street right-of-way lying West of and adjoining Lots 5 and 6, Block D, Griffiths Addition to East Fort Des Moines, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa and described as follows.

Commencing at the Northwest corner of said Lot 5; thence South 09° (degrees) 36' (minutes) 02" (seconds) along the East right-of-way line of East 5th Street 15.00 feet to the Point of Beginning; thence continuing South 09° 36'02" East, 76.67 feet; thence South 81° 36'02" West, 5.00 feet; thence North 09° 36'02" West, 76.67 feet; thence North 81° 36'02" East, 5.00 feet to the Point of Beginning, which is below a plane elevation of 87.00 feet City Datum and which is above a plane elevation of 51.00 feet City Datum.(assumed) ground elevation (0.00') being 25.63 feet City Datum. Surveyed by Leo A. Pelds, License Surveyor No. 4640.

DESCRIPTION APPROVED
[Signature]
6/09/08 15:15

2. That if the City Council decides to vacate the above described air space, the City of Des Moines proposes to sell such air space easement, as described below, to the grantee and for the consideration identified below:

To: E5W, LLC for \$240

All of the Vacated Air Space for part of East 5th Street right-of-way lying West of and adjoining Lots 5 and 6, Block D, Griffiths Addition to East Fort Des Moines, an Official Plat all now included in and forming a part of the City of Des Moines, Polk County, Iowa and described as follows.

★ **Roll Call Number**

Agenda Item Number

31

Disposition – E5W LLC: Page 2

Date June 9, 2008

Commencing at the Northwest corner of said Lot 5; thence South 09° (degrees) 36' (minutes) 02" (seconds) along the East right-of-way line of East 5th Street 15.00 feet to the Point of Beginning; thence continuing South 09° 36'02" East, 76.67 feet; thence South 81° 36'02" West, 5.00 feet; thence North 09° 36'02" West, 76.67 feet; thence North 81° 36'02" East, 5.00 feet to the Point of Beginning, which is below a plane elevation of 87.00 feet City Datum and which is above a plane elevation of 51.00 feet City Datum.(assumed) ground elevation (0.00') being 25.63 feet City Datum. Surveyed by Leo A. Pelds, License Surveyor No. 4640.

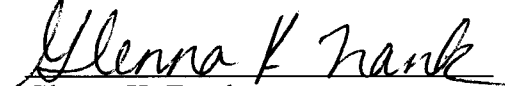
3. That the meeting of the City Council at which the adoption of said ordinance and the sale and conveyance of such air space easement is to be considered shall be on June 23, 2008, said meeting to be held at 5:00 p.m., in the Council Chamber.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.

5. The proceeds from the sale of this property shall be deposited into the following account: 2007-08 Operating Budget, Page 259, Property Maintenance, SP767.

Moved by _____ to adopt.

APPROVED AS TO FORM:



Glenna K. Frank
Assistant City Attorney

pn

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| HENSLEY | | | | |
| KIERNAN | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| VLASSIS | | | | |
| TOTAL | | | | |

MOTION CARRIED

APPROVED

Mayor

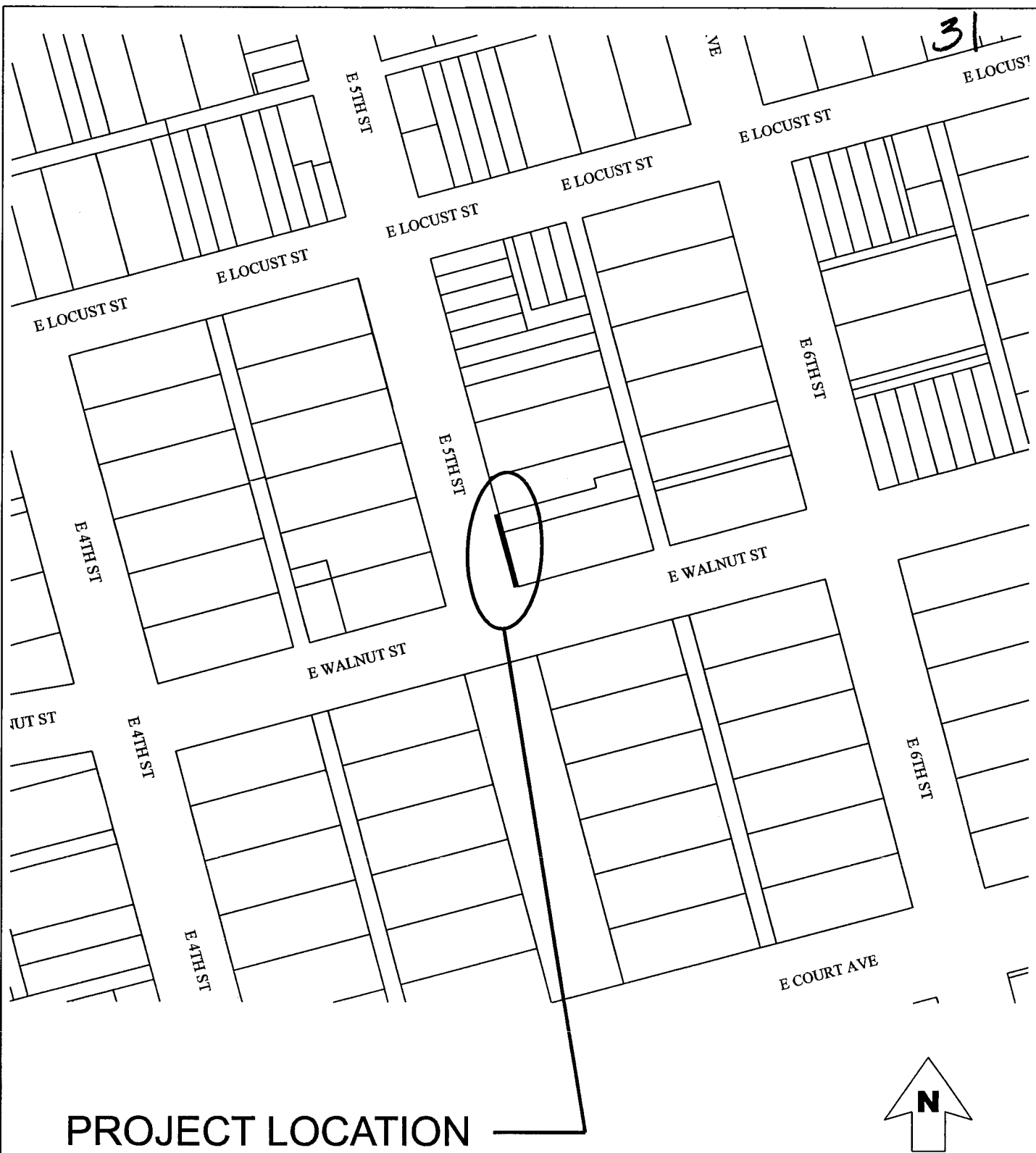
CERTIFICATE

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.

City Clerk

31



PROJECT LOCATION

**305 E. 5TH STREET
 VACATE AND CONVEY
 OF AIR SPACE
 34-2008-053**