

Date..... May 8, 2006

HOLD HEARING FOR THE VACATION AND CONVEYANCE OF THE EAST/WEST ALLEY BETWEEN WALNUT STREET AND COURT AVENUE, FROM THE NORTH/SOUTH ALLEY EAST TO 4TH STREET, TO KIRKWOOD COMMONS, LLC FOR \$32,925.00

WHEREAS, on July 18, 2005, by Roll Call No. 05-1660, the City Council adopted a recommendation from the City Plan and Zoning Commission that the east/west alley between Walnut Street and Court Avenue, from the north/south alley east to 4th Street, hereinafter more fully described, be vacated and sold; 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 such right-of-way described below; and

WHEREAS, on April 24, 2006, by Roll Call No. 06- 759, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on May 8, 2006, at 5:00 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public right-of-way 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 their views to the City Council.

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

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of the east/west alley between Walnut Street and Court Avenue, from the north/south alley to 4th Street, more specifically described as follows:

All of the East/West alley right-of-way lying North of and adjoining Lot 10, Block 21, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the sale and conveyance of such right-of-way, as described below, to Kirkwood Commons, LLC for \$32,925.00, payable in 60 equal monthly installments, and drawing interest at the rate of three percent (3%) per annum, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved:

DESCRIPTION APPROVED
[Signature]
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All of the vacated East/West alley right-of-way lying North of and adjoining Lot 10, Block 21, Fort Des Moines, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. The Mayor is authorized and directed to sign the Agreement to Purchase Real Estate From the City of Des Moines and Acceptance and the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

5. Upon final passage of an ordinance vacating the said right-of-way and upon proof of down payment of \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of said Agreement to Purchase Real Estate From the City of Des Moines and Acceptance, together with a certified copy of this resolution and of the affidavit of publication of notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded. Upon proof of payment of the consideration of \$32,925.00, the City Clerk is authorized and directed to forward the original of said Quit Claim Deed to the Real Estate Division of the Engineering Department for the purpose of causing said document to be recorded.

6. The Real Estate Division Manager is authorized and directed to forward the original of the Agreement to Purchase Real Estate From the City of Des Moines and Acceptance, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded. After the consideration has been paid in full, the Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim Deed to the Polk County Recorder's Office for the purpose of causing this document to be recorded.

7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Agreement to Purchase Real Estate From the City of Des Moines and Acceptance and copies of the other documents to the grantees. After the receipt of the recorded Quit Claim Deed from the Polk County Recorder, the Real Estate Division Manager shall mail the original document to the grantee.

★ Roll Call Number

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8. The proceeds from the sale of this property will be deposited into the following account: 2006-07 Operating Budget, Page 310, Property Maintenance, SP767.

(Council Communication No. 06-248)

Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Assistant City Attorney

Table with columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, BROOKS, COLEMAN, HENSLEY, MAHAFFEY, KIERNAN, 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