

Date December 7, 2009

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**HOLD HEARING FOR THE CONVEYANCE OF VACATED RIGHT-OF-WAY  
ADJOINING 3001 MERLE HAY ROAD AND 5703 URBANDALE AVENUE  
TO D & D INTERESTS, L.L.C. FOR \$50,000.00**

**WHEREAS**, on March 23, 2009, by Roll Call No. 09-454, the City Council of the City of Des Moines, Iowa, authorized the acquisition of real property for the Merle Hay Road/Urbandale Avenue Intersection Improvements Project (“the Project”), including acquisition of property interests from D & D Interests, LLC, as owners of 5703 Urbandale Avenue and 3001 Merle Hay Road; and

**WHEREAS**, during negotiations for property acquisition for the Project, D & D Interests, LLC expressed interest in and has offered to the City of Des Moines the purchase price of \$50,000.00 for the purchase of City-owned vacated right-of-way more specifically described below that adjoins its property, which purchase price reflects the fair market value of the property as currently estimated by the City’s Real Estate Division, and which purchase if approved is to occur simultaneously with the closing on the City’s purchase of property interests from D & D Interests, LLC for the Project; and

**WHEREAS**, there is no known current or future need for the property proposed to be sold and the City will not be inconvenienced by the sale of said property; and

**WHEREAS**, on November 23, 2009, by Roll Call No. 09- 2105, it was duly resolved by the City Council that the proposed conveyance of real property adjoining 3001 Merle Hay Road and 5703 Urbandale Avenue be set down for hearing on December 7, 2009, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to convey this public real property was given as provided by law, setting forth the time and place for hearing on said proposal; and

**WHEREAS**, in accordance with City Council direction, those interested in this proposed 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 the proposed conveyance of this property as described below are hereby overruled and the hearing is closed.
2. There is no public need for the property described below and the public would not be inconvenienced by reason of the conveyance of this property at the Intersection of Merle Hay Road and Urbandale Avenue and adjoining 3001 Merle Hay Road and 5703 Urbandale Avenue, more specifically described as follows:

Date ..... December 7, 2009 .....

LEGAL DESCRIPTION: FEE SIMPLE INTEREST

A PART OF THE NORTH 30.00 FEET OF VACATED URBANDALE AVENUE RIGHT OF WAY LYING SOUTH OF AND ADJOINING LOT 32, GOODWIN PLACE, AN OFFICIAL PLAT (EXCEPT THE WEST 17.0 FEET) VACATED BY ORDINANCE 9857, NOVEMBER 3, 1980, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE SOUTHWEST CORNER OF SAID LOT 32; THENCE NORTH 89° (DEGREES)56'(MINUTES)39"(SECONDS) EAST ALONG THE SOUTH LINE OF SAID LOT 32, A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°56'39" EAST ALONG THE SOUTH LINE OF SAID LOT 32, A DISTANCE OF 390.73 FEET; THENCE SOUTH 0°19'23" EAST, 30.00 FEET; THENCE SOUTH 89°56'39" WEST, 367.25 FEET; THENCE NORTH 68°17'31" WEST, 21.22 FEET; THENCE NORTH 33°00'45" WEST, 7.31 FEET; THENCE NORTH 0°09'58" EAST, 16.00 FEET TO THE POINT OF BEGINNING. AS SURVEYED AND MONUMENTED IN FIELD BY ELMER L. MILLER, JR. LICENSED SURVEYOR NO. 13975. ALL NOW INCLUDED IN, AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA. BY SURVEY 11,604 SQUARE FEET.

3. That the sale and conveyance of such right-of-way to D & D Interests, LLC for \$50,000.00 together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved.
4. The Mayor is authorized and directed to sign the Offer to Purchase and the Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. The City Clerk is authorized and directed to forward the original of this Deed, 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.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Deed, 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.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Deed and copies of the other documents to the grantees.

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8. The proceeds from the sale of this property will be deposited into the following account:  
PROPERTY MAINTENANCE ENDOWMENT FUND: SP767, ENG980500.

(Council Communication No. 09-851)

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Glenna K. Frank*

Glenna K. Frank  
Assistant City Attorney

*ron*

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

MOTION CARRIED APPROVED

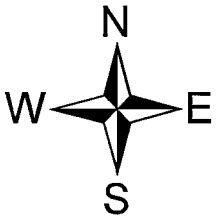
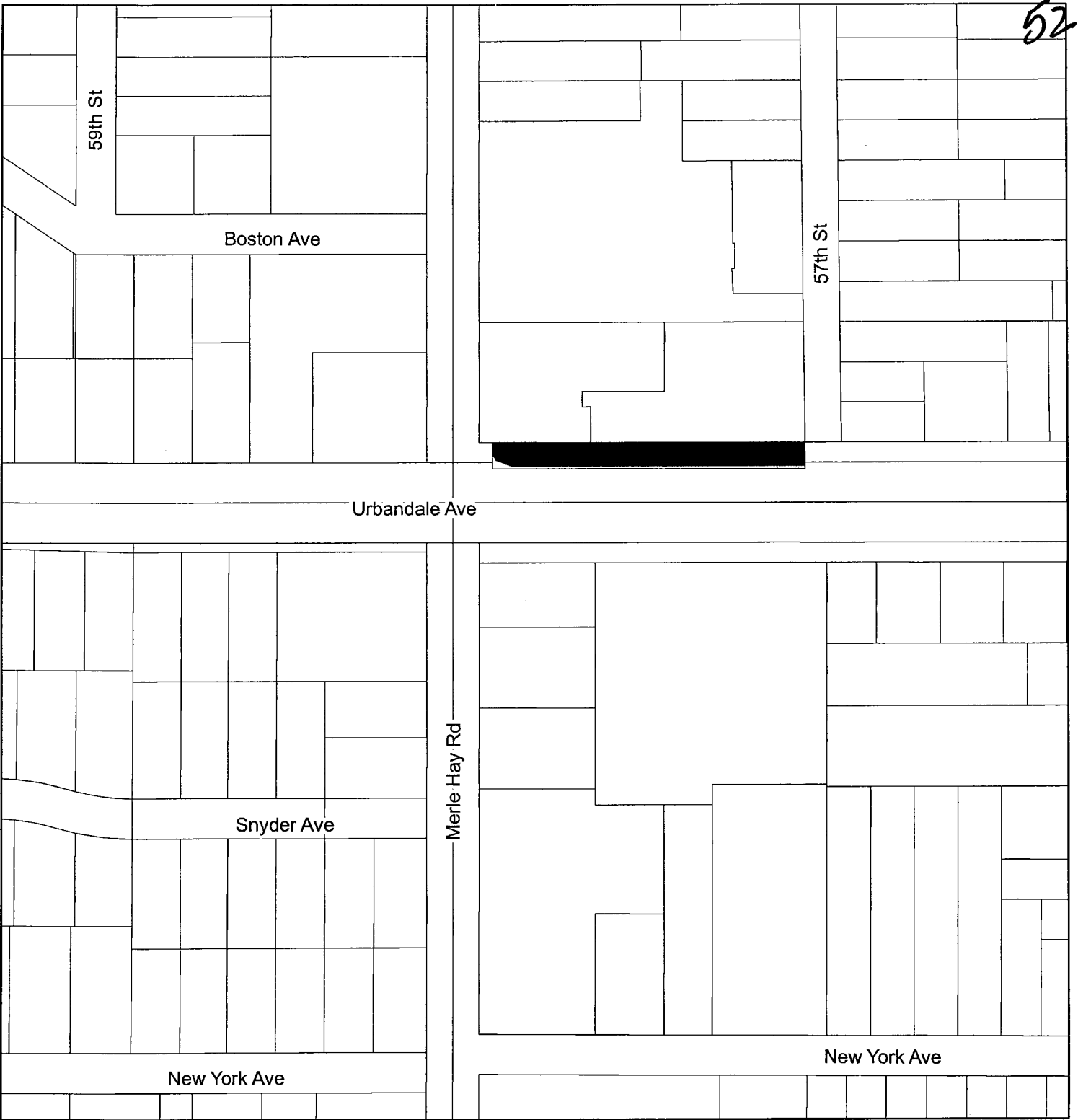
\_\_\_\_\_  
Mayor

**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



**Legend**

 PROJECT LOCATION

**CONVEYANCE OF  
VACATED URBANDALE AVENUE  
RIGHT-OF-WAY**