

**Date** ..... January 23, 2012 .....

**HEARING FOR VACATION AND CONVEYANCE OF SEGMENTS OF SOUTHWEST WATER STREET AND MARKET STREET RIGHT-OF-WAY TO WATERFRONT LODGING, INC. IN EXCHANGE FOR COMPARABLE PARCELS LOCATED ALONG VINE STREET AND SOUTHWEST 2<sup>ND</sup> STREET, ALL LOCATED IN THE BLOCK BOUND BY VINE, SOUTHWEST WATER, MARKET AND SOUTHWEST 2<sup>ND</sup> STREETS**

**WHEREAS**, on January 23, 2012, by Roll Call No. 12-\_\_\_\_\_, the City Council received a recommendation from the City Plan and Zoning Commission that segments of Southwest Water Street and Market Street right-of-way located in the block bound by Vine, Southwest Water, Market and Southwest 2<sup>nd</sup> Streets (“City Right-of-way”), hereinafter more fully described, be vacated and conveyed to Waterfront Lodging, Inc. in exchange and as consideration for conveyance by Waterfront Lodging, Inc. to the City of Des Moines of comparable parcels located along Vine Street and Southwest 2<sup>nd</sup> Street (“Waterfront Lodging, Inc. parcels”); and

**WHEREAS**, Waterfront Lodging, Inc. is the purchaser of the real property locally known as 101 Southwest 2<sup>nd</sup> Street that abuts the City Right-of-way and has requested the vacation and conveyance of such Right-of-way for the purpose of incorporation with surrounding properties for development; and

**WHEREAS**, the proposed property exchange will allow the City of Des Moines to widen Vine Street and Southwest 2<sup>nd</sup> Street right-of-way, and the Waterfront Lodging, Inc. parcels have been determined by the City’s Real Estate Division to be comparable in value to the requested City Right-of-way; and

**WHEREAS**, Waterfront Lodging, Inc. and the City Real Estate Division have negotiated a land exchange agreement which will include, among other terms, provisions that (1) closing on the land exchange is subject to Waterfront Lodging, Inc. closing on the purchase of the adjoining property, (2) closing is subject to approval of the development plan for the property by the City Council, and (3) any and all other conditions included in the City Plan and Zoning Commission recommendation; and

**WHEREAS**, there is no known current or future public need or benefit for the City Right-of-way proposed to be exchanged, and the City will not be inconvenienced by the conveyance of said property; and

**WHEREAS**, on December 5, 2011, by Roll Call No. 11-2083, it was duly resolved by the City Council that the proposed vacation and conveyance of such City Right-of-way be set down for hearing on January 23, 2012, 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.

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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 segments of Southwest Water Street and Market Street right-of-way located in the block bound by Vine, Southwest Water, Market and Southwest 2<sup>nd</sup> Streets, more specifically described as follows:

THE SOUTHWESTERLY 4.32 FEET OF SOUTHWEST WATER STREET RIGHT-OF-WAY, EXCEPT THE NORTHWESTERLY 2.43 FEET, LYING NORTHEASTERLY OF AND ADJOINING BLOCK 36, FORT DES MOINES, AN OFFICIAL PLAT, AND THE SOUTHWESTERLY 4.32 FEET OF SOUTHWEST WATER STREET RIGHT-OF-WAY LYING NORTHEASTERLY OF THE NORTHWESTERLY 2.43 FEET OF MARKET STREET RIGHT-OF-WAY, LYING SOUTHEASTERLY OF AND ADJOINING SAID BLOCK 36, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THE NORTHWESTERLY 2.43 FEET OF MARKET STREET RIGHT-OF-WAY, EXCEPT THE SOUTHWESTERLY 4.32 FEET, LYING SOUTHEASTERLY OF AND ADJOINING BLOCK 36, 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 conveyance of such City right-of-way to Waterfront Lodging, Inc., subject to the conditions set forth above and in the land exchange agreement, as consideration and exchange for conveyance by Waterfront Lodging, Inc. to the City of comparable parcels located along Vine Street and Southwest 2<sup>nd</sup> Street, be and is hereby approved:

THE VACATED SOUTHWESTERLY 4.32 FEET OF SOUTHWEST WATER STREET RIGHT-OF-WAY, EXCEPT THE NORTHWESTERLY 2.43 FEET, LYING NORTHEASTERLY OF AND ADJOINING BLOCK 36, FORT DES MOINES, AN OFFICIAL PLAT, AND THE SOUTHWESTERLY 4.32 FEET OF SOUTHWEST WATER STREET RIGHT-OF-WAY LYING NORTHEASTERLY OF THE NORTHWESTERLY 2.43 FEET OF MARKET STREET RIGHT-OF-WAY, LYING SOUTHEASTERLY OF AND ADJOINING SAID BLOCK 36, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA.

AND

THE VACATED NORTHWESTERLY 2.43 FEET OF MARKET STREET RIGHT-OF-WAY, EXCEPT THE SOUTHWESTERLY 4.32 FEET, LYING SOUTHEASTERLY OF AND ADJOINING BLOCK 36, 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 land exchange agreement and prior to closing, the Quit Claim Deed and related real estate documents for the conveyance to Waterfront Lodging, Inc. as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature and to endorse upon the conveyance

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documents to the City from Waterfront Lodging, and upon all related real estate documents, the approval and acceptance of the City Council.

5. Upon final passage of an ordinance vacating the said City right-of-way, the City Clerk is authorized and directed to forward the original of said 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.

7. The City Manager and/or his designee, the City's Real Estate Division Manager, is hereby authorized and directed to administer and monitor the land exchange agreement; to approve and execute documents pertaining to minor or unsubstantial changes to said agreement, following approval of the City's Legal Department as to form; to proceed to closing in accordance with the terms set forth herein and in the agreement; and, if needed, to proceed with and execute documents pertaining to the termination of the agreement if Waterfront Lodging, Inc. fails to fulfill the contract terms required therein, following approval of the City's Legal Department.

8. There will be no proceeds associated with this exchange of property.

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

APPROVED AS TO FORM:

  
 Glenna K. Frank, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				
MOTION CARRIED			APPROVED	

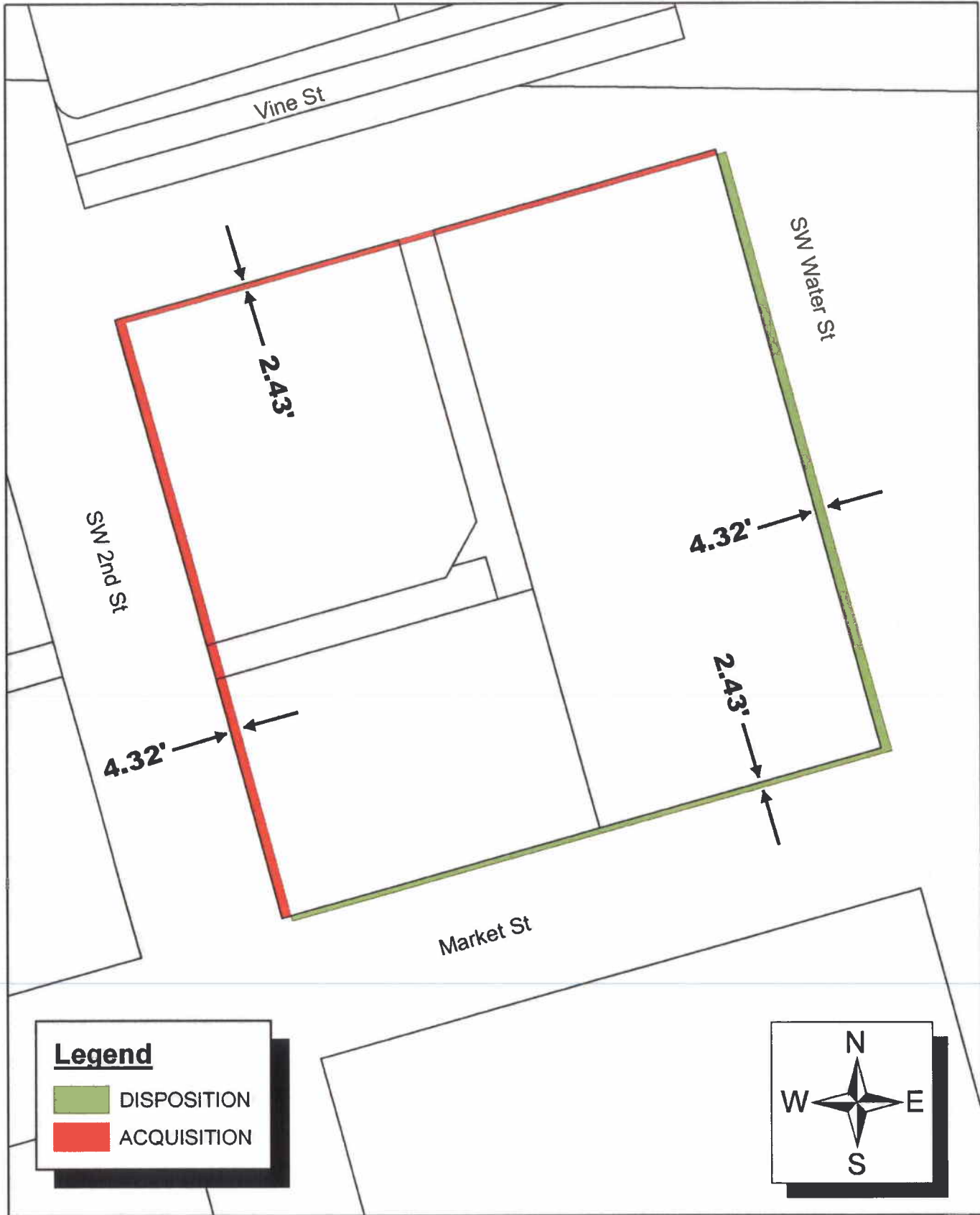
**CERTIFICATE**

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.

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk



**WATERFRONT LODGING, INC.**