

Date June 11, 2012

**HEARING FOR VACATION AND CONVEYANCE OF A PORTION OF 15<sup>TH</sup> STREET  
ADJOINING 1440 WALNUT STREET FOR THE  
CRANE BUILDING REDEVELOPMENT PROJECT FOR \$12,600**

**WHEREAS**, on March 26, 2012, by Roll Call No. 12-0452, the City Council received the recommendation from the Plan and Zoning Commission to vacate an irregular segment of 15th Street right-of-way adjoining the property locally known as 1440 Walnut Street (Crane Building), subject to reservation of an easement for utilities currently in place until such time as they are abandoned or relocated; and

**WHEREAS**, on May 7, 2012, by Roll Call No. 12-0691, the City Council received the recommendation from the Plan and Zoning Commission to vacate a subsurface portion of Walnut Street adjoining the property locally known as 1440 Walnut Street (Crane Building), subject to reservation of easement for utilities currently in place; and

**WHEREAS**, MDI Limited Partnership #86 is the owner of the real property locally known as 1440 Walnut Street that abuts such right-of-way and has offered to the City of Des Moines the purchase price of \$12,600.00 for the vacation and purchase of a portion of 15<sup>th</sup> Street, as legally described below, for the purpose of the Crane Building Redevelopment Project, which purchase price reflects the restricted use fair market value of the property interest as currently estimated by the City's Real Estate Division; and

**WHEREAS**, MDI Limited Partnership #86 has now requested to purchase less of 15<sup>th</sup> Street right-of-way than originally requested and as previously described in Roll Call No. 12-0692 and included in the published notice of said Council resolution and date of hearing, and thus the description of said property below reflects that portion of 15<sup>th</sup> Street right-of-way now requested to be purchased by MDI Limited Partnership #86 by the City; and

**WHEREAS**, MDI Limited Partnership #86 originally had also requested acquisition from the City of a permanent easement within the subsurface portion of City right-of-way along Walnut Street adjoining 1440 Walnut Street, but has since determined that said easement area is not necessary due to MDI Limited Partnership #86's plan to close and abandon the subsurface building encroachment in accordance with a separate future agreement; and

**WHEREAS**, there is no known current or future public need or benefit for the 15<sup>th</sup> Street right-of-way proposed to be vacated and sold, and the City will not be inconvenienced by the vacation and sale of said property interests; and

**WHEREAS**, on May 7, 2012, by Roll Call No. 12-0692, 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 21, 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

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WHEREAS, on May 21, 2012, by Roll Call No. 12-0827, the public hearing was opened and continued to June 11, 2012 at 5:00 p.m. in the Council Chamber; and

WHEREAS, in accordance with said notice and continuance, 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 or benefit for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of 15<sup>th</sup> Street adjoining the property locally known as 1440 Walnut Street, more specifically described as follows (said legal description corrected to address scrivener's errors included in Roll Call No. 12-0692, and to reduce the property being purchased as requested by MDI Limited Partnership #86 from that shown in Roll Call No. 12-0692):

15<sup>TH</sup> STREET RIGHT-OF-WAY

AN IRREGULAR SHAPED PORTION OF THE 15th STREET PUBLIC RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 5 AND 6 IN BLOCK 39, LYON'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF LOT 6 IN BLOCK 39 OF SAID LYON'S ADDITION TO FORT DES MOINES; THENCE NORTH 15° (DEEGRES) 52' (MINUTES) 19" (SECONDS) WEST (BEARING ASSMED FOR THE PURPOSE OF THIS SURVEY) ALONG THE WESTERLY LINE OF SAID LOTS 6 AND 5, A DISTANCE OF 114.00 FEET; THENCE SOUTH 61°31'34" WEST, A DISTANCE OF 7.43 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF 15th STREET AS IT IS PRESENTLY ESTABLISHED; THENCE SOUTH 14°31'22" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 39.26 FEET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG A 50.00 FEET RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 17.45 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 04°31'42" EAST AND A CHORD LENGTH OF 17.36 FEET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG A 266.77 FEET RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 63.70 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 12°18'25" WEST AND A CHORD LENGTH OF 63.55 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 6; THENCE NORTH 74°16'01" EAST ALONG THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 6, A DISTANCE OF 41.60 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 1,879 SQUARE FEET OR 0.04 ACRES.

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3. That the sale and conveyance of such right-of-way to MDI Limited Partnership #86 for \$12,600.00, together with payment by such grantee of the estimated publication and recording costs for this transaction, be and is hereby approved, subject to the reservation of an easement for utilities currently in place until such time as they are abandoned or relocated and of an easement for the existing retaining wall and fence adjoining the right-of-way, and subject to a no-build restriction and conditions thereof:

15<sup>TH</sup> STREET RIGHT-OF-WAY

AN IRREGULAR SHAPED PORTION OF THE VACATED 15th STREET PUBLIC RIGHT-OF-WAY LYING WEST OF AND ADJOINING LOTS 5 AND 6 IN BLOCK 39, LYON'S ADDITION TO FORT DES MOINES, AN OFFICIAL PLAT, DES MOINES, POLK COUNTY, IOWA DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6 IN BLOCK 39 OF SAID LYON'S ADDITION TO FORT DES MOINES; THENCE NORTH 15° (DEEGRES) 52' (MINUTES) 19" (SECONDS) WEST (BEARING ASSMED FOR THE PURPOSE OF THIS SURVEY) ALONG THE WESTERLY LINE OF SAID LOTS 6 AND 5, A DISTANCE OF 114.00 FEET; THENCE SOUTH 61°31'34" WEST, A DISTANCE OF 7.43 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF 15th STREET AS IT IS PRESENTLY ESTABLISHED; THENCE SOUTH 14°31'22" EAST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 39.26 FEET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG A 50.00 FEET RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 17.45 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 04°31'42" EAST AND A CHORD LENGTH OF 17.36 FEET; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND ALONG A 266.77 FEET RADIUS CURVE CONCAVE WESTERLY, A DISTANCE OF 63.70 FEET, SAID CURVE HAVING A CHORD BEARING OF SOUTH 12°18'25" WEST AND A CHORD LENGTH OF 63.55 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 6; THENCE NORTH 74°16'01" EAST ALONG THE WESTERLY EXTENSION OF THE SOUTHERLY LINE OF SAID LOT 6, A DISTANCE OF 41.60 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 1,879 SQUARE FEET OR 0.04 ACRES.

4. That approval of the conveyance described herein is subject to the condition precedent that MDI Limited Partnership #86 shall complete closure and abandonment of the subsurface building encroachment along Walnut Street adjoining 1440 Walnut Street, prior to closing on the purchase of the above-described property and pursuant to separate agreement between the City and MDI Limited Partnership #86 relating to said closure and abandonment.

5. The Mayor is authorized and directed to sign the Offer to Purchase and, upon completion of the condition precedent set forth herein, the Quit Claim Deed for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.

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6. Upon final passage of an ordinance vacating the said 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 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 after closing on the sale described herein.
7. Upon closing, the Real Estate Division Manager is authorized and directed to forward the original of the Deed and Easement, 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.
8. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Quit Claim Deed and Easement and copies of the other documents to the grantee.
9. The proceeds from the sale of this property will be deposited into the following account: Property Maintenance Fund, SP767, ENG980500.

(Council Communication No. 12- 290 )

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		
_____ 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