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**Date**..... October 12, 2015.....

**HOLD HEARING FOR VACATION AND CONVEYANCE OF PORTIONS OF  
SOUTHWEST 4<sup>TH</sup> STREET AND WEST MARTIN LUTHER KING, JR. PARKWAY  
(ALSO KNOWN AS ELM STREET) ADJOINING 300 WEST MARTIN LUTHER  
KING, JR. PARKWAY TO EYCHANER HOLDINGS, INC. FOR \$45,000**

**WHEREAS**, on July 27, 2015, by Roll Call No. 15-1237, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission that a 46-foot by 112.5-foot segment of SW 4th Street, hereinafter more fully described, be vacated, subject to reservation of easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or relocated; and

**WHEREAS**, on July 27, 2015, by Roll Call No. 15-1238, the City Council of the City of Des Moines, Iowa, proposed that a segment of SW 4th Street lying south of West Martin Luther King, Jr. Parkway and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway, hereinafter more fully described, be vacated, subject to prior review and recommendation of the City's Plan and Zoning Commission; and

**WHEREAS**, on September 14, 2015, by Roll Call No. 15-1506, the City Council of the City of Des Moines, Iowa, received a recommendation from the City Plan and Zoning Commission that a segment of SW 4th Street lying south of West Martin Luther King, Jr. Parkway and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr. Parkway, hereinafter more fully described, be vacated, subject to the following:

1. Reservation of any necessary easements for all existing utilities in place, including known water and sanitary sewer mains, until such time that they are abandoned or are relocated.
2. Provision of private drive connections to West Martin Luther King, Jr. Parkway and Southwest 5<sup>th</sup> Street from 300 West Martin Luther King, Jr. Parkway, if determined necessary following further discussion with the City Traffic Engineer regarding the need and requirements for provision of private access easements for separately owned private properties adjoining to the west.
3. The access from remaining Elm Street to the west shall be closed with a permanent barrier, including a curb and a landscaped berm.
4. Restoration of the vacated Elm Street right-of-way by the purchaser in accordance with an administratively approved site plan; and

**WHEREAS**, Eychaner Holdings, Inc., owner of the adjoining property, has offered to the City of Des Moines the purchase price of \$45,000.00 for the vacation and purchase of the 46-foot by 112.5-foot segment of SW 4th Street right-of-way, and a segment of SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, and a portion of West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th Street, all adjoining 300 West Martin Luther King Jr.

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Parkway (herein "City Right-of-Way"), in order to create direct access to West Martin Luther King, Jr. Parkway as part of the redevelopment of their adjoining property, which price reflects the fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

**WHEREAS**, Eychaner Holdings, Inc. may eliminate the condition for private drive access connections to SW 5<sup>th</sup> Street by providing written consent from the affected property owners and granting said owners a private access easement to West Martin Luther King, Jr. Parkway, prior to closing; and

**WHEREAS**, there is no known current or future public need or benefit for the portion of the City Right-of-Way proposed to be vacated, or for the City Right-of-Way proposed to be sold, and the City will not be inconvenienced by the vacation and sale of said property.

**WHEREAS**, on September 28, 2015, by Roll Call No. 15-1604, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the City Right-of-Way be set down for hearing on October 12, 2015, at 5:00 p.m., in the City Council Chambers; and

**WHEREAS**, due notice of said proposal to vacate and convey the City 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 City Council direction, those interested in the 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 of the City of Des Moines, Iowa.

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

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation and conveyance of the City Right-of-Way, as described herein, are hereby overruled and the hearing is closed.
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 portions of Southwest 4<sup>th</sup> Street and West Martin Luther King, Jr. Parkway (also known as Elm Street) adjoining 300 West Martin Luther King, Jr. Parkway, as legally described below, and said vacation is hereby approved:

All that part of SW 4th Street lying East of and adjoining Lots 54 through 63 inclusive in Railroad Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

And

That part of West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

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Beginning at the Northeast corner of Lot 54 in Railroad Addition, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 54.40 feet along the northerly extension of the West right-of-way line of SW 4th Street; thence North 80°01'27" East, 122.41 feet; thence South 15°44'55" East, 32.08 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence South 74°15'05" West, 76.13 feet along the North line of said previously vacated right-of-way to the northerly extension of the East right-of-way line of SW 4th Street; thence South 15°19'11" East, 10.00 feet along the northerly extension of the East right-of-way line of SW 4th Street to the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence South 74°15'05" West, 46.00 feet to the point of beginning. All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 18,028 square feet.

3. The proposed sale of such vacated right-of-way, as legally described below, to Eychaner Holdings, Inc. for \$45,000.00, together with payment by said grantee of the estimated publication and recording costs for this transaction, subject to the requirements of the Plan and Zoning Commission recommendation and the Offer to Purchase, is hereby approved:

All that part of vacated SW 4th Street lying East of and adjoining Lots 54 through 63 inclusive in Railroad Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa,

And

That part of vacated West Martin Luther King Jr. Parkway (former Elm Street) right-of-way being more particularly described as follows:

Beginning at the Northeast corner of Lot 54 in Railroad Addition, an Official Plat; thence North 15°(degrees) 19'(minutes) 11"(seconds) West, 54.40 feet along the northerly extension of the West right-of-way line of SW 4th Street; thence North 80°01'27" East, 122.41 feet; thence South 15°44'55" East, 32.08 feet to the North line of that 10 foot strip of right-of-way previously vacated by Ordinance No. 15,378 and conveyed to Green Ltd., L.C. by that Quit Claim Deed filed in Book 15636, Page 653 in the Office of the Recorder for Polk County, Iowa; thence South 74°15'05" West, 76.13 feet along the North line of said previously vacated right-of-way to the northerly extension of the East right-of-way line of SW 4th Street; thence South 15°19'11" East, 10.00 feet along the northerly extension of the East right-of-way line of SW 4th Street to the Northwest corner of Lot 1 in Green Colonial Place Plat 2, an Official Plat; thence South 74°15'05" West, 46.00 feet to the point of beginning. All now included in and forming a part of the City of Des Moines, Polk County, Iowa, and containing 18,028 square feet.

4. Both the vacation and conveyance are subject to Eychaner Holdings, Inc. providing the aforementioned access easement to the City within 60 days for review and approval by the Legal Department of City of Des Moines.



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- 5. The Mayor is authorized and directed to sign the Offer to Purchase and Quit Claim Deed for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
- 6. Upon proof of payment of the consideration plus \$113.00 for publication and recording costs and the satisfaction of all conditions set forth herein, the City Clerk is authorized and directed to forward the original of the Quit Claim 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 Real Estate Division Manager is authorized and directed to forward the original of the Quit Claim 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.
- 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 copies of the other documents to the grantees.
- 9. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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

APPROVED AS TO FORM:

(Council Communication No. 15-538)

  
Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

CERTIFICATE

I, Laura Baumgartner, Chief Deputy 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.

Chief Deputy City Clerk