

Date February 8, 2016

**HOLD HEARING FOR CONVEYANCE OF A PERMANENT FIBER OPTIC EASEMENT
ACROSS CITY-OWNED PROPERTY IN THE VICINITY OF SE 6TH STREET AND
SHAW STREET TO MCI COMMUNICATIONS SERVICES, INC.**

WHEREAS, on July 28, 2014, by Roll Call No. 14-1162, the City Council of the City of Des Moines, Iowa, (“City”) approved the sale and conveyance of City-owned property located north of the Des Moines River, west of SE 6th Street and south of Shaw Street in downtown Des Moines (“Property”), to Hansen Real Estate Services, Inc. or its successor entity, Eagle View Lofts, LLC, for \$251,350, with closing subject to the buyer’s determination of project financing, rezoning of the property as required for the proposed development, and closing by the buyer on the sale of the adjoining property from the Des Moines Metropolitan Wastewater Reclamation Authority (“WRA”); and

WHEREAS, there is currently an underground fiber optic easement on the Property to MCI Communications Services, Inc. (“Current Easement”), which does not allow structures to be built within the easement area; and

WHEREAS, a portion of the Current Easement is located within the area for the proposed development project area; and

WHEREAS, in order to facilitate future development on the Property, the Current Easement must be released and replaced with a new permanent fiber optic easement to MCI Communications Services, Inc. (“Replacement Easement”); and

WHEREAS, Eagle View Lofts, LLC, as assignee of Hansen Real Estate Services, Inc., and MCI Communications Services, Inc. have requested the Replacement Easement across said Property; and

WHEREAS, said Replacement Easement will include terms that allow structures to be built within the easement area and will also reduce the size of the Current Easement area, both of which will benefit the City’s interest in the future development of the Property; and

WHEREAS, no additional consideration is required for the conveyance of the Replacement Easement, as it merely replaces an existing easement and serves to benefit the City; and

WHEREAS, the City must grant the requested Replacement Easement to allow for redevelopment of the Property by Eagle View Lofts, LLC, as assignee of Hansen Real Estate Services, Inc.; and

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WHEREAS, the City and the public will not be inconvenienced by the conveyance of the Replacement Easement as requested by Eagle View Lofts, LLC and MCI Communications Services, Inc.

WHEREAS, on January 25, 2016, by Roll Call No. 16-0125, it was duly resolved by the City Council that the proposed conveyance of the Replacement Easement be set down for hearing on February 8, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of the proposal to convey the Replacement Easement was given as provided by law, setting forth the time and place for hearing on the proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed conveyance, both for and against, have been given an opportunity to be heard 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, that:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed conveyance of the permanent easement described below are hereby overruled and the hearing is closed.
2. The public would not be inconvenienced by reason of the conveyance of a three-foot wide permanent fiber optic easement both above and below ground, under, over, through and across City-owned property located north of the Des Moines River, west of SE 6th Street and south of Shaw Street in downtown Des Moines, legally described as follows, to MCI Communications Services, Inc. to allow for the proposed development of the Property, and the conveyance of said easement is hereby approved:

FIBER EASEMENT AREA 1 DESCRIPTION:

A PART OF VACATED NORTH/SOUTH ALLEY OF BLOCK 58 IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS A 3.00 FEET WIDE EASEMENT BEING 1.50 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHEAST CORNER OF LOT 10 OF SAID BLOCK 58; THENCE SOUTH 14°57'04" EAST ALONG THE EAST LINE OF LOTS 9 AND 10 OF SAID BLOCK 58, A DISTANCE OF 56.26 FEET; THENCE SOUTH 61°47'47" WEST, 3.10 FEET; THENCE SOUTH 66°03'13" WEST, 16.55 FEET; THENCE SOUTH 62°33'14" WEST, 46.36 FEET; THENCE SOUTH 35°16'57" WEST, 15.16 FEET; THENCE SOUTH 52°45'26" WEST, 19.39 FEET; THENCE SOUTH 56°37'08" WEST, 15.64 FEET; THENCE SOUTH 64°35'29" WEST, 20.43 FEET; THENCE SOUTH 63°49'06" WEST, 13.44 FEET; THENCE SOUTH 55°06'54" WEST, 8.59 FEET TO THE WEST LINE OF LOT 9, BLOCK 58, TOWN OF DE MOINE AND THE POINT OF BEGINNING; THENCE SOUTH 55°06'54" WEST, 6.71 FEET; THENCE SOUTH 50°30'12" WEST, 12.86 FEET TO THE EAST LINE OF LOT 2, BLOCK 58, SAID TOWN OF DE MOINE AND THE POINT OF TERMINUS AND CONTAINING 59 SQUARE

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FEET, THE SIDELINES OF SAID EASEMENT SHALL SHORTEN OR EXTEND TO THE LOT LINES AT THE POINT OF BEGINNING AND THE POINT OF TERMINUS.

FIBER EASEMENT AREA 2 DESCRIPTION:

A PART OF VACATED SE 5TH STREET WEST OF BLOCK 58 IN THE TOWN OF DE MOINE, AN OFFICIAL PLAT, ALL NOW INCLUDED IN AND FORMING A PART OF THE CITY OF DES MOINES, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS A 3.00 FEET WIDE EASEMENT BEING 1.50 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHEAST CORNER OF LOT 10 OF SAID BLOCK 58; THENCE SOUTH 14°57'04" EAST ALONG THE EAST LINE OF LOTS 9 AND 10 OF SAID BLOCK 58, A DISTANCE OF 56.26 FEET; THENCE SOUTH 61°47'47" WEST, 3.10 FEET; THENCE SOUTH 66°03'13" WEST, 16.55 FEET; THENCE SOUTH 62°33'14" WEST, 46.36 FEET; THENCE SOUTH 35°16'57" WEST, 15.16 FEET; THENCE SOUTH 52°45'26" WEST, 19.39 FEET; THENCE SOUTH 56°37'08" WEST, 15.64 FEET; THENCE SOUTH 64°35'29" WEST, 20.43 FEET; THENCE SOUTH 63°49'06" WEST, 13.44 FEET; THENCE SOUTH 55°06'54" WEST, 15.31 FEET; THENCE SOUTH 50°30'12" WEST, 18.00 FEET; THENCE SOUTH 49°11'53" WEST, 10.37 FEET; THENCE SOUTH 54°33'40" WEST, 12.01 FEET; THENCE SOUTH 56°03'09" WEST, 14.26 FEET; THENCE SOUTH 54°26'32" WEST, 18.64 FEET; THENCE SOUTH 62°53'06" WEST, 15.70 FEET; THENCE SOUTH 56°47'21" WEST, 14.19 FEET; THENCE SOUTH 57°05'15" WEST, 15.33 FEET; THENCE SOUTH 57°35'30" WEST, 15.20 FEET; THENCE SOUTH 55°20'55" WEST, 14.43 FEET; THENCE SOUTH 59°24'37" WEST,

10.53 FEET; THENCE SOUTH 58°56'11" WEST, 13.26 FEET TO THE WEST LINE OF LOT 3, BLOCK 58, TOWN OF DE MOINE AND THE POINT OF BEGINNING; THENCE SOUTH 58°56'11" WEST, 3.39 FEET; THENCE SOUTH 59°07'55" WEST, 11.82 FEET; THENCE SOUTH 65°53'01" WEST, 16.18 FEET; THENCE SOUTH 57°08'04" WEST, 15.21 FEET; THENCE SOUTH 58°22'41" WEST, 13.33 FEET; THENCE SOUTH 63°31'58" WEST, 16.25 FEET; THENCE SOUTH 57°57'08" WEST, 6.57 FEET TO THE EAST LINE OF LOT 7, BLOCK 57, SAID TOWN OF DE MOINE AND THE POINT OF TERMINUS AND CONTAINING 248 SQUARE FEET, THE SIDELINES OF SAID EASEMENT SHALL SHORTEN OR EXTEND TO THE LOT LINES AT THE POINT OF BEGINNING AND THE POINT OF TERMINUS.

3. The Mayor is authorized and directed to sign the Easement for the conveyance identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
4. The City Clerk is authorized and directed to forward the original of the Easement, 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 the documents to be recorded.
5. The Real Estate Division Manager is authorized and directed to forward the original of the 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.

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- 6. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Easement and copies of the other documents to the grantee.
- 7. There will be no proceeds associated with the conveyance of this easement.

Moved by _____ to adopt.

APPROVED AS TO FORM:

(Signature)

Lisa A. Wieland, Assistant City Attorney

PSW

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

MOTION CARRIED APPROVED

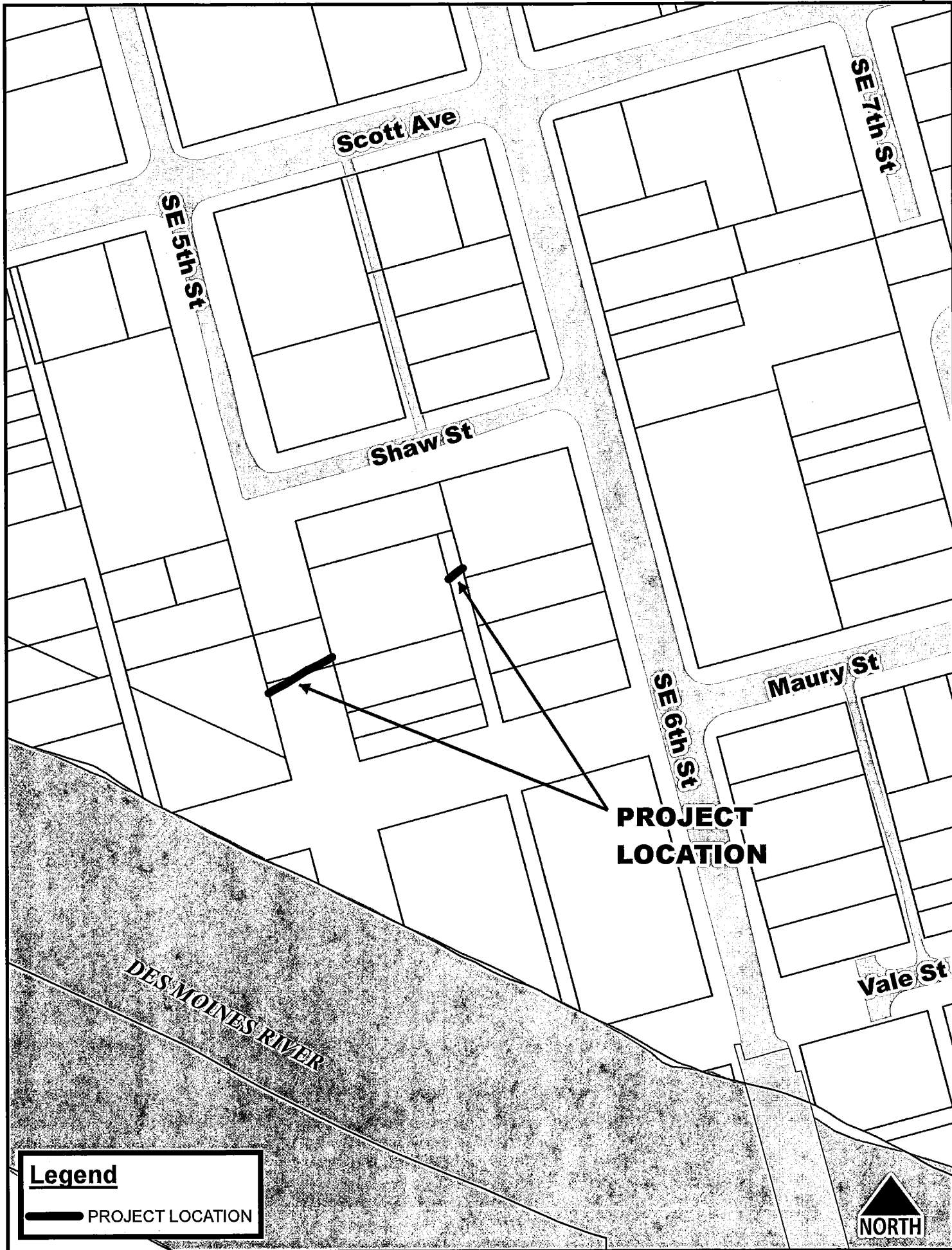
Mayor

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



**PROJECT
LOCATION**

Legend
— PROJECT LOCATION

