

Date March 7, 2016

HOLD HEARING FOR CONVEYANCE OF A PORTION OF WEST MARTIN LUTHER KING, JR. PARKWAY (ALSO KNOWN AS ELM STREET) ADJOINING 300 WEST MARTIN LUTHER KING, JR. PARKWAY, AND OF A PORTION OF SOUTHWEST 4TH STREET LYING SOUTH OF WEST MARTIN LUTHER KING, JR. PARKWAY TO EYCHANER HOLDINGS, INC. FOR \$22,500.00

WHEREAS, on October 12, 2015, by Roll Call No. 15-1725, the City Council of the City of Des Moines, Iowa, adopted Ordinance No. 15,409 vacating portions of Southwest 4th 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 (“Property”), 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 5th 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.
 - a) This vacation shall not become effective until such time that Eychaner Holdings, Inc. has provided the City of Des Moines with the aforementioned access easement to be reviewed and subject to the approval of the Legal Department of the City of Des Moines. This condition shall be deemed satisfied upon the recording of an affidavit from the Real Estate Manager acknowledging all conditions have been satisfied.
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, by Roll Call No. 15-1723, the above described vacation included a requirement that review and approval by the Legal Department must be completed within 60 days of October 12, 2015, and

WHEREAS, Eychaner Holdings, Inc., owner of the adjoining property, has offered to the City of Des Moines the purchase price of \$22,500.00 for the purchase of a segment of vacated SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, and a portion of vacated West Martin Luther King Jr. Parkway (also known as Elm Street) between SW 3rd Street and SW 4th

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Street, all adjoining 300 West Martin Luther King Jr. Parkway (herein "City Right-of-Way"), in order to create direct access to both West Martin Luther King, Jr. Parkway and Southwest 5th Street as part of the redevelopment of their adjoining property, which price reflects the restricted-use fair market value of the City Right-of-Way as currently estimated by the City's Real Estate Division; and

WHEREAS, the City has no known current or future public need for the Property proposed to be sold and the City will not be inconvenienced by the sale and conveyance of said Property, subject to the reservation of a permanent no-build easement on the Property and an easement upon the Property for the continued use and maintenance of any utilities now in place, including utilities for the benefit and use of the City, with the right of entry for servicing same, until such time as they are abandoned or relocated by the buyer at the buyer's expense, and further subject to the requirements of the Offer to Purchase, and to the conditions set forth in Vacation Ordinance 15,409 recorded in the Office of the Recorder of Polk County, Iowa on November 10, 2015; and

WHEREAS, on February 22, 2016, by Roll Call No. 16-0273, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed conveyance of the Property be set down for hearing on March 7, 2016, at 5:00 p.m., in the City Council Chambers; and

WHEREAS, due notice of said proposal to convey the 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 the 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 of the City of Des Moines, Iowa.

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, any and all objections to the proposed conveyance of the vacated right-of-way, as described below, are hereby overruled and the hearing is closed.

2. There is no public need or benefit for the vacated SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, or the portion of vacated West Martin Luther King Jr. Parkway (also known as Elm Street) right-of-way between SW 3rd Street and SW 4th Street, proposed to be conveyed, and the public would not be inconvenienced by reason of the conveyance of a segment of vacated SW 4th Street right-of-way lying south of West Martin Luther King, Jr. Parkway, or a portion of vacated 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, legally described as follows, to Eychaner Holdings, Inc. for \$22,500.00, and said conveyance be and is hereby approved, subject to the reservation of a permanent no-build easement on the Property and

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an easement upon the Property for the continued use and maintenance of any utilities now in place, including utilities for the benefit and use of the City, with the right of entry for servicing same, until such time as they are abandoned or relocated by the buyer at the buyer's expense, and further subject to reservation of easements therein, and to the requirements of the Offer to Purchase, and to the conditions set forth in Vacation Ordinance 15,409 recorded in the Office of the Recorder of Polk County, Iowa, on November 10, 2015, in Book 15802, Page 154:

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.

3. The authority for Legal Department review and approval by set forth by Roll Call No. 15-1723 concerning the above described vacation is hereby extended until May 7, 2016.
4. 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.
5. The Real Estate Division Manager is authorized and directed to sign the Affidavit Acknowledging Satisfaction of Conditions Contained in Ordinance 15,409.
5. 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 Quit Claim Deed, together with

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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 Quit Claim Deed and the Affidavit Acknowledging Satisfaction of Conditions Contained in Ordinance 15,409, 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 Quit Claim Deed and copies of the other documents to the grantees.

8. Non-project related land sale proceeds are used to support general operating budget expenses:
Org – EG064090.

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(Council Communication No. 16- 117)

Moved by _____ to adopt.

APPROVED AS TO FORM:


Lisa A. Wieland, Assistant City Attorney

BN

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