

Date March 6, 2017

**SET HEARING FOR VACATION OF A PORTION OF MULBERRY STREET AND  
12<sup>TH</sup> STREET RIGHTS-OF-WAY ADJOINING 121 12<sup>TH</sup> STREET AND CONVEYANCE  
OF A PERMANENT EASEMENT FOR BUILDING ENCROACHMENT TO 12<sup>TH</sup>  
STREET LOFTS, LLC FOR \$2,000.00**

**WHEREAS**, on February 20, 2017, by Roll Call No. 17-0265, the City Council of the City of Des Moines, Iowa, received and filed a communication from the City Plan and Zoning Commission recommending approval of a request from 12<sup>th</sup> Street Lofts, LLC for the vacation of a 5-foot by 5-foot segment of Mulberry Street and a 5-foot by 5-foot segment of 12<sup>th</sup> Street rights-of-way adjoining 121 12<sup>th</sup> Street (hereinafter collectively "City Right-of-Way") to allow for two permanent building entrance door swings into the City Right-of-Way, subject to planters being placed on each side of the door for the protection of pedestrian traffic when the door is opened.

**WHEREAS**, 12<sup>th</sup> Street Lofts, LLC, owner of the adjoining property, 121 12<sup>th</sup> Street, has offered to the City the purchase price of \$2,000.00 for the purchase of a Permanent Easement For Building Encroachment in said City Right-of-Way, hereinafter more fully described, to allow for encroachment into the City Right-of-Way for two permanent building entrance door swings, which price reflects the fair market value of the City Right-of-Way as determined by the City's Real Estate Division; and

**WHEREAS**, there is no public need or benefit for the right-of-way proposed to be vacated and sold, and the public would not be inconvenienced by reason of the vacation and sale of said City Right-of-Way.

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

1. That the City Council of the City of Des Moines, Iowa, shall consider adoption of an ordinance permanently vacating a portion of Mulberry Street and 12<sup>th</sup> Street rights-of-way adjoining 121 12<sup>th</sup> Street, more specifically described as follows:

**12<sup>th</sup> Street**

Commencing at the Northwest corner of said Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence South 15°26'05" East, 67.17 feet along the East right-of-way line of said 12<sup>th</sup> Street, also being West line of said Block 23, to the Point of Beginning; thence continuing South 15°26'05" East, 5.00 feet along the East right-of-way line of said 12<sup>th</sup> Street; thence South 74°33'55" West, 5.00 feet; thence North 15°26'05" West, 5.00 feet; thence North 74°33'55" East, 5.00 feet to the point of beginning.

Containing 25.00 square feet.

**Mulberry Street**

Date March 6, 2017

Commencing at the Northwest corner of said Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 74°14'27" East, 43.48 feet along the South right-of-way line of said Mulberry Street, also being North line of said Block 23, to the Point of Beginning; thence North 15°45'33"W, 5.00 feet; thence North 74°14'27 East, 5.00 feet; thence South 15°45'33" East, 5.00 feet to the South right-of-way line of said Mulberry Street; thence South 74°14'27" West, 5.00 feet along the South right-of-way line of said Mulberry Street to the point of beginning.

Containing 25.00 square feet.

2. That, if the City Council of the City of Des Moines, Iowa, first decides to vacate the above described City Right-of-Way, the City of Des Moines, Iowa, further proposes to convey a Permanent Easement For Building Encroachment therein, as legally described as follows, to 12<sup>th</sup> Street Lofts, LLC, for \$2,000.00, subject to planters being placed on each side of the door for the protection of pedestrian traffic when the door is opened:

**12<sup>th</sup> Street**

Commencing at the Northwest corner of said Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence South 15°26'05" East, 67.17 feet along the East right-of-way line of said 12<sup>th</sup> Street, also being West line of said Block 23, to the Point of Beginning; thence continuing South 15°26'05" East, 5.00 feet along the East right-of-way line of said 12<sup>th</sup> Street; thence South 74°33'55" West, 5.00 feet; thence North 15°26'05" West, 5.00 feet; thence North 74°33'55" East, 5.00 feet to the point of beginning.

Containing 25.00 square feet.

**Mulberry Street**

Commencing at the Northwest corner of said Block 23 of KEENE & POINDEXTER'S ADDITION TO FORT DES MOINES; thence North 74°14'27" East, 43.48 feet along the South right-of-way line of said Mulberry Street, also being North line of said Block 23, to the Point of Beginning; thence North 15°45'33"W, 5.00 feet; thence North 74°14'27 East, 5.00 feet; thence South 15°45'33" East, 5.00 feet to the South right-of-way line of said Mulberry Street; thence South 74°14'27" West, 5.00 feet along the South right-of-way line of said Mulberry Street to the point of beginning.

Containing 25.00 square feet.

3. That the meeting of the City Council at which said vacation and the conveyance is to be considered shall be on March 20, 2017, said meeting to be held at 5:00 p.m., in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King Jr. Parkway, Des Moines, Iowa.

4. That the City Clerk is hereby authorized and directed to publish notice of said proposals in the form hereto attached, all in accordance with §362.3 of the Iowa Code.

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

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

APPROVED AS TO FORM:

*[Signature]*  
Lisa A. Wieland, Assistant City Attorney

*RTW*

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GREY				
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

**EASEMENT  
AREAS**

**Mulberry St**

**12th St**

**BENEFITED PROPERTY**

**121 12TH  
STREET**

**Legend**

-  EASEMENT AREAS
-  BENEFITED PROPERTY