

Date February 22, 2016

**SET 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 4<sup>TH</sup> 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 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 ("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 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.
  - 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**, 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 4<sup>th</sup> 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 3<sup>rd</sup> Street and SW 4<sup>th</sup> 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 5<sup>th</sup> 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

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**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, in Book 15802, Page 154.

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

1. The City Council of the City of Des Moines, Iowa, proposes to sell 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 Street, all adjoining 300 West Martin Luther King Jr. Parkway, as legally described and to the grantees and for the consideration identified below, 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, in Book 15802, Page 154:

Grantee: Eychaner Holdings, Inc.  
For: \$22,500.00  
Legal Description:

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.,


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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.

2. A public hearing shall be held on March 7, 2016, at 5:00 p.m. in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa. At that time, the City Council of the City of Des Moines, Iowa, will consider the above-described proposal and any other(s) submitted prior to or during the public hearing.
3. The City Clerk is hereby authorized and directed to publish notice of said proposal and hearing in the form hereto attached, all in accordance with Section 362.3 of the Iowa Code.
4. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

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

APPROVED AS TO FORM:

  
 Lisa A. Wieland, Assistant City Attorney

BW

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

MOTION CARRIED APPROVED

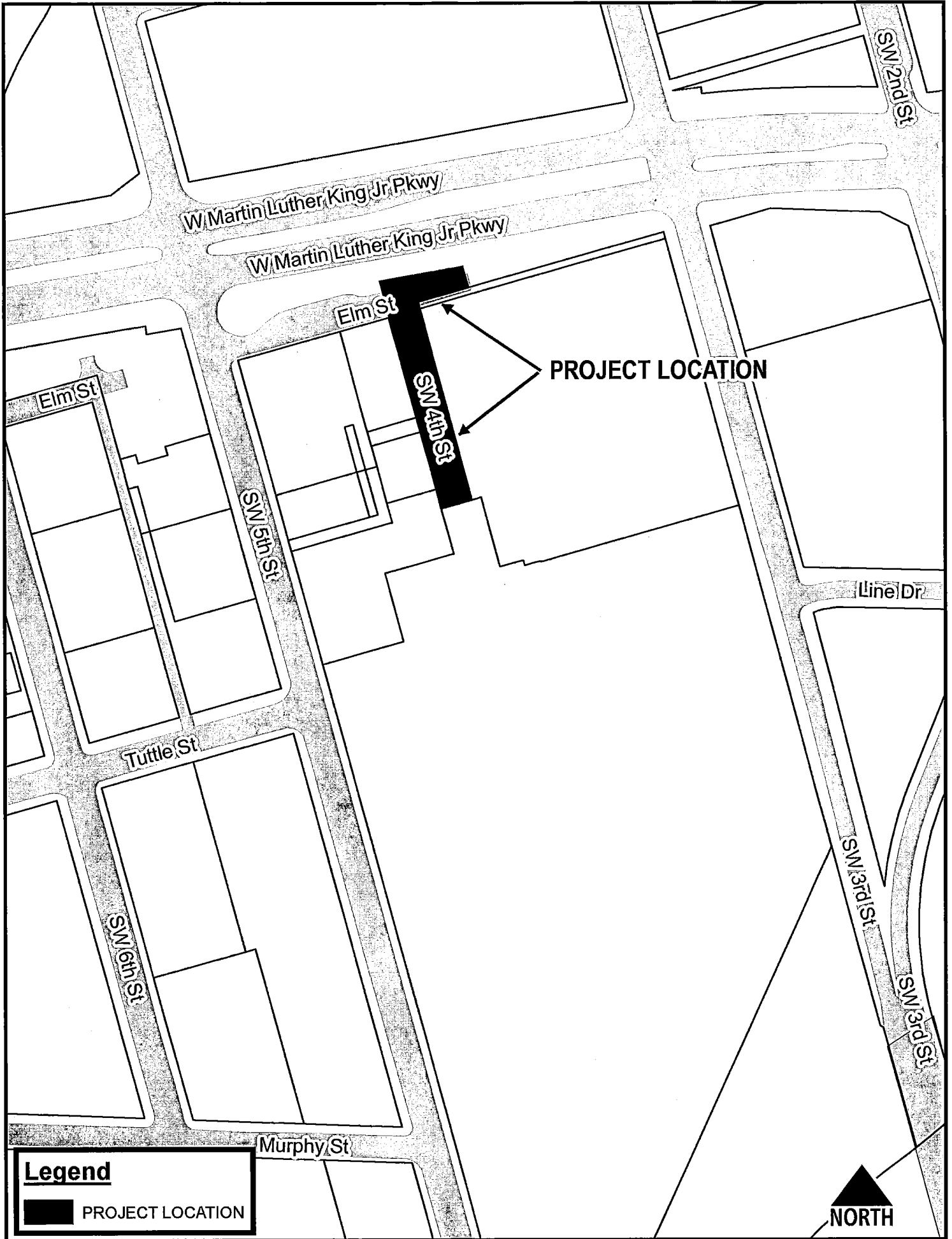
Mayor

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



**Legend**

 PROJECT LOCATION

