

.....
Date..... March 26, 2007

RESOLUTION APPROVING VACATION OF RIGHTS-OF-WAY AND
AGREEMENT FOR EXCHANGE OF REAL ESTATE WITH NATIONWIDE
MUTUAL INSURANCE COMPANY

WHEREAS, on October 9, 2006, by Roll Call No. 06-1970, the City Council adopted a recommendation from the City Plan and Zoning Commission that a portion of Cherry Street between 12th and 13th Streets, and a portion of 13th Street between Mulberry and Cherry Streets, hereinafter more fully described, be vacated and sold; and,

WHEREAS, the planned realignment of 13th Street between Locust and Walnut Streets will leave a two foot strip along the east side of the street which is available for vacation and sale to Nationwide Mutual Insurance Company ("Nationwide") for assembly into the site of its new office building to be constructed upon the block bounded by Locust, Walnut, 12th and 13th Streets; and,

WHEREAS, Nationwide is acquiring all of the block bounded by 12th, 13th, Mulberry and Cherry Streets, and seeks to acquire the adjoining portions of 13th and Cherry Streets described below, for the construction of a new parking garage to serve the new office building; and,

WHEREAS, the City Manager has negotiated an *Agreement for Exchange of Real Estate* with Nationwide for the sale of the City-owned land described below and for the City to undertake certain improvements to the adjoining streets, in exchange for the conveyance by Nationwide to the City of land needed for the planned widening of Mulberry and 12th Streets, and an additional payment by Nationwide as described below; and,

WHEREAS, on March 12, 2007, by Roll Call No. 07- 454, it was duly resolved by the City Council that the proposed vacation and conveyance of such right-of-way be set down for hearing on March 26, 2007, at 5:30 p.m., in the Council Chamber; and

WHEREAS, due notice of said proposal to vacate and convey public 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 said notice, those interested in said 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; 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, the objections to said proposed vacation and conveyance of public right-of-way as described below are hereby overruled and the hearing is closed.

(continued)

Date..... March 26, 2007

2. There is no public need for the right-of-way proposed to be vacated and the public would not be inconvenienced by reason of the vacation of a portion of Cherry Street between 12th and 13th Streets, a portion of 13th Street between Mulberry and Cherry Streets, and a two foot strip of 13th Street between Locust and Walnut Streets, more specifically described as follows:

Cherry Street between 12th and 13th Streets:

All the vacated Cherry Street right-of-way lying South of and adjoining Lot 5, 6 and 7, and lying South of and adjoining the vacated 13th Street right-of-way lying West of and adjoining said Lot 5, and lying South of and adjoining the vacated North/South alley right-of-way between said Lots 6 and 7, and lying South of and adjoining the West 54.46 feet of Lot 8, of Block 30, Keen & Poindexter's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

13th Street between Mulberry and Cherry Streets:

All the vacated 13th Street right-of-way lying West of and adjoining the South 118.0 feet of Lot 4, and lying West of and adjoining Lot 5, and lying West of and adjoining the vacated East/West alley right-of-way between said Lots 4 and 5, of Block 30, Keen & Poindexter's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

East 2 feet of 13th Street between Locust and Walnut Streets:

The West 2.0 feet of the East 32.91 feet of Lot 6, Block 2, Allen's Addition, an Official Plat; all the East/West alley right-of-way lying South of and adjoining the West 2.0 feet of the East 32.91 feet of said Lot 6; and the East 2.0 feet of that part of vacated 13th Street right-of-way lying West of and adjoining Lot 4, Block 28, Keene & Poindexter's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

3. That the sale and conveyance such vacated rights-of-way to Nationwide Mutual Insurance Company in exchange for the following real estate to be conveyed by Nationwide to the City and for the additional consideration of \$40,318.⁰⁰, all as more specifically described in the *Agreement for Exchange of Real Estate* now on file and available for public inspection in the office of the City Clerk, is hereby approved, subject to final passage and publication of the ordinance vacating the rights-of-way.

The North 14.0 feet of Lots 1, 2, 3 and 4; and the North 14.0 feet of the vacated North/South alley right-of-way lying West of and adjoining the said Lot 2, in Block 30, Keen & Poindexter's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

Date..... March 26, 2007

AND, the East 12.0 feet of Lot 1, except the North 14.0 feet thereof; the East 12.0 feet of the vacated East/West alley right-of-way lying South of and adjoining said Lot 1; and the East 12.0 feet of Lot 8, in Block 30, Keen & Poindexter's Addition, an Official Plat, all now included in and forming a part of the City of Des Moines, Polk County, Iowa.

4. Upon final passage of the ordinance vacating the rights-of-way described above, the Mayor is authorized and directed to sign the *Agreement for Exchange of Real Estate* and the Special Warranty Deed as provided in the Agreement on behalf of the City, and the City Clerk is authorized and directed to attest to the Mayor's signature on such documents. The City Clerk is further directed to forward the executed Special Warranty Deed to the City Real Estate Division for release to Nationwide at Closing.

(Council Communication No. 07- 149)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

C:\Rog\Eco Dev\Nationwide\2nd Phase\Sale of ROW\RC Vac & Conv.doc

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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